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Hannah Yeoh Tseow Suan v Kamarul Zaman bin Hj Yusoff

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HIGH COURT (KUALA LUMPUR) — SUIT NO WA-23CY-10–02 OF 2022
ALIZA SULAIMAN J
24 SEPTEMBER 2025

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Tort — Defamation — Libel — Whether plaintiff had proven case on balance of probabilities — Whether defences of justification, fair comment and qualified privilege failed — Whether defendant's defamatory remarks against plaintiff were actuated by malice — Whether plaintiff was entitled to general and aggravated damages but not exemplary damages

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In 2014, the plaintiff, currently the Youth and Sports Minister of Malaysia and a member of the DAP political party, had published an autobiography of herself entitled 'Becoming Hannah: A Personal Journey' ('the book') in which she explained how her life had changed remarkably after she embraced Christianity. The plaintiff had described how 'miracles' had happened in her life and many of her life-long dreams had been fulfilled. She exhorted fellow Christians to unite and work towards rebuilding Malaysia to bring about righteousness in its politics and public service. The defendant, who was a political science lecturer in a local university and a political analyst, had, after reading parts of the book, authored and published on his public Facebook ('FB') page a post entitled 'Hannah Yeoh Contoh Hipokrasi Terbesar DAP' ('the first publication'). In it, he quoted excerpts from the to depict the DAP's championing of secularism and keeping religion separate from politics as a farcical hypocrisy as the plaintiff, being a DAP leader, seemed to imply in the book that it was alright if politics mixed with Christianity. Seven days after the first publication, the defendant published on his same FB page a police report he had lodged against the plaintiff ('the second publication) wherein he, inter alia, accused the plaintiff of attempting to use the book to convert Muslims to Christianity and to raise matters that went against Islamic teachings. The defendant accused the plaintiff of using the book to incite religious disaffection and hatred, thereby breaching peace, harmony and public order in the country. In the police report, the defendant called for the plaintiff to be investigated for committing offences under various laws including the Federal Constitution. In the instant action, the plaintiff pleaded that the defendant's two publications had defamed her for suggesting, inter alia, that she intended to convert Muslims to Christianity through her politics, convert Malaysia into a Christian nation, destroy or threaten the religion and/or practice of Islam in Malaysia and for implying that she was an untrustworthy and dishonourable politician who was unfit to be a people's representative. The plaintiff sought general, aggravated and exemplary damages, an unconditional public retraction and

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apology and an injunction barring the defendant and his servants or agents from further publishing the defamatory statements. The defendant relied on the defences of justification, fair comment and qualified privilege.

Held, allowing the plaintiff's claim, awarding her a global sum of RM400,000 as general and aggravated damages together with interest and costs and granting the injunction sought:

(1) The plaintiff had discharged her burden of proving on balance of probabilities that the two publications had defamed her in that they suggested, amongst others, that she was a threat to Islam and that she had abused her public position to Christianise the country (see para 56).

(2) During cross-examination, the defendant had agreed that the two publications carried the meanings as ascribed to them by the plaintiff. The defendant could not then later submit that the meanings ascribed by the plaintiff were a 'misconstruction' especially when he had not pleaded an alternative meaning to the impugned words in the two publications (see paras 38–40 & 46).

(3) The defendant's intention on what he actually meant or wanted to convey was irrelevant. What was relevant was what the ordinary man understood from the impugned words. It was an objective test. An ordinary man would understand the impugned words in the first publication to mean, amongst others, that the plaintiff was spreading Christianity, was a criminal, an untrustworthy politician who had a hidden agenda to use her political position to spread Christianity to Muslims and who mixed religion with politics so long as it benefitted Christianity but would condemn those who mixed Islam with politics (see paras 41–43).

(4) The defence of justification failed as the defendant failed to justify the meanings of the impugned words in the publications as pleaded by the plaintiff. The defendant did not plead any alternative meaning to the impugned words and he conceded under oath to the meanings ascribed to the words by the plaintiff. The defendant did not adduce any evidence of any Muslim having converted to Christianity upon reading the book or that the plaintiff had been convicted of the crime of proselytising Muslims in this country. The defence of justification was based on the defendant's flawed understanding of selected passages from the book without fully understanding the entire book in its proper context. The pleaded particulars of justification did not in any way prove that the meanings ascribed to the impugned words by the plaintiff were true or substantially true. As for the second publication, the defendant failed to justify the need for him to publish the contents of the police report to the world. If his genuine intention was to have the book investigated, lodging

a police report was sufficient. There was no need to publish the report to the world (see paras 72–73, 75, 78 & 98).

(5) The defence of fair comment failed. Order 78 r 3(2) of the Rules of Court 2012 was not complied with. No particulars were pleaded to show which of the words complained of constituted statements of fact. The defence also failed because the impugned words in the two publications were by no means fair. They were based on an erroneous understanding of a handful of paragraphs from the book. Naturally, this would result in any comment about the Book to be incomplete, unfair and selective. No facts were pleaded as the basis for the defendant's allegations in the first publication and for the publication of the police report and the allegations made therein. The defence of fair comment also failed on the ground of malice (see paras 84–88).

(6) The two publications were not published on an occasion of privilege because: (a) the defendant was not an elected representative who was duty-bound to raise matters of public importance. Neither was he a leader of a religious body or authority in charge of Islamic administration or the affairs of the Muslim community; (b) the defendant's qualifications related to political sciences. He was clearly not an expert in the field of religion or comparative religion or law to provide any expert views on the subject; (c) no religious body had taken any action against the plaintiff or even issued a statement relating to the book. The plaintiff was not entitled to set a standard by which others had to abide. Muslims were not obliged to adopt his personal interpretations; hence, he could not assert that he was under any religious or moral duty to impose his views on others; (d) the defendant was not qualified in any way to determine if the plaintiff had committed any crime under any law; and (e) the defence of qualified privilege was defeated by the fact that the publications were actuated by malice (see paras 92–93).

(7) The two publications were actuated by malice because: (a) the defendant ignored the fact that the book was a personal story of the plaintiff's life journey and her faith; (b) the defendant only referred to selected passages in the book without informing readers that the book consisted of 111 pages and was published in 2014 and had never been banned by the authorities; (c) although the book was only published in English, the defendant's first publication was in the national language to deliberately target Malay readers; (d) the defendant used inflammatory words and compared the contents of the book to the teachings of Islam to ignite racial and religious sentiments; (e) the defendant accused the plaintiff of mixing religion with politics when nothing in the book suggested that she had imposed her religious beliefs in the carrying out of her political roles; (f) the defendant did not produce any evidence that any Muslim had converted to Christianity, or intended to do so, just by having read the

book; and (g) the defendant failed to justify why it was necessary to publish his police report against the plaintiff to the world (see para 98).

(8) After reviewing the trend of awards, the court took the view that a sum of RM200,000 for each of two publications, totalling RM400,000, as general and aggravated damages was appropriate in the circumstances of the case. Exemplary damages were not awarded as the plaintiff had not proven its claim for the same, in particular, that the defendant's conduct was calculated to make a non-monetary profit for himself. The prayer for injunction was allowed given that the defendant failed to show any remorse and because there was evidence from him and DW3 at the trial that they were not going to let the matter rest but would work to get the plaintiff charged and eventually imprisoned. If unrestrained, they could use statements which had been proven to be defamatory to incite hate and stir racial and religious issues which would harm this nation's multi-ethnic and multi-religious society. The prayer for an unconditional public retraction and apology was not allowed as the defendant showed no willingness to apologise. Any apology forced upon him would be insincere (see paras 119 & 124–127).

[Bahasa Malaysia summary

Pada tahun 2014, plaintif, yang kini menjawat jawatan Menteri Belia dan Sukan Malaysia serta merupakan ahli parti politik DAP, telah menerbitkan sebuah autobiografi bertajuk 'Becoming Hannah: A Personal Journey' ('buku tersebut'). Dalam buku tersebut, plaintif menerangkan bagaimana kehidupannya berubah secara ketara selepas beliau memeluk agama Kristian, termasuk pengalaman yang digambarkan sebagai 'keajaiban' serta pencapaian impian hidupnya. Beliau turut menyeru penganut Kristian supaya bersatu dan berusaha membina semula Malaysia bagi membawa keadilan dalam politik dan perkhidmatan awam. Defendan, seorang pensyarah sains politik di sebuah universiti tempatan dan penganalisis politik, setelah membaca sebahagian kandungan buku, telah menulis serta menerbitkan satu hantaran di laman Facebook ('FB') awam miliknya bertajuk 'Hannah Yeoh Contoh Hipokrasi Terbesar DAP' ('penerbitan pertama'). Melalui penerbitan tersebut, defendan memetik petikan daripada buku tersebut untuk menggambarkan kononnya pendirian DAP mengenai sekularisme dan pemisahan agama daripada politik adalah suatu kepura-puraan, kerana plaintif sebagai pemimpin DAP seolah-olah membenarkan pencampuran politik dengan Kristian. Tujuh hari selepas penerbitan pertama, defendan menerbitkan di FB yang sama suatu laporan polis yang beliau sendiri buat terhadap plaintif ('penerbitan kedua'). Dalam laporan itu, defendan antara lain menuduh plaintif berusaha menggunakan buku tersebut untuk memurtadkan umat Islam kepada Kristian, membangkitkan isu yang bercanggah dengan ajaran Islam, serta menghasut perpecahan dan kebencian agama sehingga mengancam keamanan, keharmonian dan ketenteraman awam. Defendan turut menggesa supaya

A plaintif disiasat atas dakwaan melakukan kesalahan di bawah pelbagai undang-undang termasuk Perlembagaan Persekutuan. Dalam tindakan ini, plaintif mendakwa bahawa kedua-dua penerbitan defendan adalah berunsur fitnah kerana secara tersirat atau nyata menggambarkan, antara lain, bahawa plaintif berniat untuk mengkristiankan umat Islam melalui politik, menukar B Malaysia menjadi negara Kristian, mengancam agama dan/atau amalan Islam di Malaysia, serta menuduh plaintif sebagai ahli politik yang tidak jujur, tidak bermaruah dan tidak layak menjadi wakil rakyat. Plaintif menuntut ganti rugi am, teruk dan teladan, penarikan balik serta permohonan maaf tanpa syarat, dan injunksi menghalang defendan serta ejen-ejennya daripada menerbitkan C kenyataan fitnah tersebut lagi. Defendan pula bergantung kepada pembelaan justifikasi, komen adil dan keistimewaan bersyarat.

Diputuskan, membenarkan tuntutan plaintif, menganugerahkan jumlah global sebanyak RM400,000 sebagai ganti rugi am dan teruk termasuk faedah D dan kos serta membenarkan injunksi yang dipohon:

(1) Plaintif telah berjaya membuktikan, atas imbangan kebarangkalian, bahawa kedua-dua penerbitan tersebut adalah berunsur fitnah terhadapnya kerana ianya membawa maksud, antara lain, bahawa E plaintif merupakan ancaman kepada Islam dan bahawa beliau telah menyalahgunakan kedudukan awamnya untuk mengkristiankan negara ini (lihat perenggan 56).

(2) Semasa pemeriksaan balas, defendan telah bersetuju bahawa kedua-dua penerbitan itu memang membawa maksud seperti yang dihujahkan oleh F plaintif. Oleh itu, defendan tidak boleh kemudiannya berhujah bahawa maksud yang ditentukan plaintif adalah satu 'salah tafsir', khususnya apabila defendan tidak pernah menuntut sebarang maksud alternatif bagi kata-kata yang dipertikaikan dalam kedua-dua penerbitan tersebut (lihat perenggan 38–40 & 46).

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(3) Niat defendan mengenai apa yang sebenarnya dimaksudkan atau ingin disampaikan adalah tidak relevan. Yang relevan ialah apa yang difahami oleh orang biasa daripada perkataan yang dipertikaikan. Ujian yang digunakan adalah objektif. Seorang orang biasa akan memahami H perkataan dalam penerbitan pertama itu membawa maksud, antara lain, bahawa plaintif menyebarkan agama Kristian, adalah seorang pesalah jenayah, seorang ahli politik yang tidak boleh dipercayai yang mempunyai agenda tersembunyi untuk menggunakan kedudukan politiknya bagi menyebarkan Kristian kepada orang Islam, dan bahawa I beliau mencampuradukkan agama dengan politik selagi ianya menguntungkan Kristian tetapi akan mengutuk pihak yang mencampurkan Islam dengan politik (lihat perenggan 41–43).

(4) Pembelaan justifikasi gagal kerana defendan gagal membuktikan kebenaran maksud perkataan yang dipertikaikan sebagaimana yang

dihujahkan oleh plaintif. Defendan tidak memohon sebarang maksud alternatif dan beliau sendiri, di bawah sumpah, telah menerima maksud-maksud yang ditetapkan oleh plaintif. Defendan tidak mengemukakan sebanrang bukti bahawa mana-mana orang Islam telah memeluk agama Kristian selepas membaca buku tersebut atau bahawa plaintif pernah disabitkan kesalahan memurtadkan orang Islam di negara ini. Pembelaan justifikasi defendan adalah berdasarkan pemahaman yang salah terhadap petikan-petikan tertentu daripada buku tersebut tanpa memahami keseluruhan buku tersebut dalam konteksnya yang sebenar. Butir-butir justifikasi yang dipohon tidak membuktikan bahawa maksud yang dihujahkan plaintif adalah benar atau secara substansinya benar. Bagi penerbitan kedua, defendan turut gagal membuktikan keperluan untuk menyiarkan kandungan laporan polis tersebut kepada umum. Jika niat sebenarnya adalah untuk buku itu disiasat, memfailkan laporan polis sudah memadai. Tiada keperluan untuk menyiarkannya kepada dunia (lihat perenggan 72–73, 75, 78 & 98).

(5) Pembelaan komen adil adalah gagal. Kaedah 78 r 3(2) Kaedah-Kaedah Mahkamah 2012 tidak dipatuhi. Tiada butiran dinyatakan bagi menunjukkan perkataan yang dipertikaikan itu adalah pernyataan fakta. Pembelaan tersebut turut gagal kerana perkataan yang dipertikaikan dalam kedua-dua penerbitan tersebut sama sekali tidak adil. Ianya berasaskan pemahaman yang silap terhadap beberapa perenggan terpilih daripada buku tersebut, menyebabkan sebarang komen yang dibuat menjadi tidak lengkap, tidak adil dan selektif. Tiada fakta yang dipohon sebagai asas kepada dakwaan defendan dalam penerbitan pertama dan bagi penerbitan laporan polis serta dakwaan-dakwaan di dalamnya. Pembelaan komen adil juga gagal atas alasan kewujudan niat jahat (lihat perenggan 84–88).

(6) Kedua-dua penerbitan tersebut tidak dibuat dalam satu keadaan keistimewaan kerana: (a) defendan bukan wakil rakyat yang mempunyai kewajipan untuk mengutarakan isu kepentingan awam; beliau juga bukan pemimpin badan agama atau pihak berkuasa berkaitan pentadbiran Islam atau hal ehwal masyarakat Islam; (b) kelayakan defendan adalah dalam bidang sains politik. Jelas beliau bukan pakar dalam bidang agama, perbandingan agama atau undang-undang untuk memberikan pandangan pakar; (c) tiada mana-mana badan agama pernah mengambil tindakan terhadap plaintif atau mengeluarkan kenyataan berkaitan buku tersebut. Plaintif tidak menetapkan sebarang standard yang perlu diikuti orang lain, dan umat Islam tidak wajib menerima tafsiran peribadinya; justeru defendan tidak boleh mendakwa beliau berada di bawah kewajipan agama atau moral untuk memaksakan pandangannya ke atas orang lain; (d) defendan tidak mempunyai kelayakan untuk menentukan sama ada plaintif telah melakukan apa-apa kesalahan di bawah mana-mana undang-undang; dan (e) pembelaan

keistimewaan bersyarat turut diketepikan kerana penerbitan-penerbitan tersebut didorong oleh niat jahat (lihat perenggan 92–93).

(7) Kedua-dua penerbitan tersebut didorong oleh niat jahat kerana: (a) defendan mengabaikan fakta bahawa buku tersebut adalah kisah peribadi perjalanan hidup dan kepercayaan plaintif; (b) defendan hanya merujuk kepada petikan terpilih daripada buku tersebut tanpa memaklumkan pembaca bahawa buku tersebut mengandungi 111 muka surat, diterbitkan pada tahun 2014 dan tidak pernah diharamkan oleh pihak berkuasa; (c) walaupun buku itu diterbitkan hanya dalam bahasa Inggeris, penerbitan pertama defendan dibuat dalam bahasa kebangsaan dengan tujuan untuk menyasarkan pembaca Melayu; (d) defendan menggunakan perkaraan berunsur hasutan dan membandingkan kandungan buku tersebut dengan ajaran Islam bagi membangkitkan sentimen perkauman dan keagamaan; (e) defendan menuduh plaintif mencampuradukkan agama dengan politik sedangkan tiada apa pun dalam buku tersebut yang menunjukkan plaintif telah mengenakan kepercayaannya dalam pelaksanaan peranan politiknya; (f) defendan gagal mengemukakan sebarang bukti bahawa ada mana-mana Muslim yang telah memeluk Kristian, atau berniat berbuat demikian, hanya kerana membaca buku tersebut; dan (g) defendan gagal menjelaskan keperluan untuk menerbitkan laporan polis yang dibuat terhadap plaintif kepada umum (lihat perenggan 98).

(8) Setelah meneliti trend anugerah ganti rugi, mahkamah berpendapat bahawa jumlah RM200,000 bagi setiap satu daripada dua penerbitan, iaitu keseluruhan RM400,000 sebagai ganti rugi am dan teruk, adalah munasabah dalam keadaan kes. Ganti rugi teladan tidak diberikan kerana plaintif gagal membuktikan tuntutan tersebut, khususnya bahawa tindakan defendan adalah bagi tujuan memperoleh keuntungan bukan kewangan. Permohonan injunksi dibenarkan memandangkan defendan tidak menunjukkan sebarang keinsafan dan terdapat keterangan daripada beliau dan SP3 semasa perbicaraan bahawa mereka tidak akan menghentikan perkara tersebut malah akan berusaha memastikan plaintif didakwa dan akhirnya dipenjarakan. Tanpa sekatan, mereka boleh menggunakan kenyataan yang telah terbukti sebagai memfitnah untuk menghasut kebencian serta mencetuskan isu perkauman dan keagamaan yang boleh memudaratkan masyarakat majmuk negara ini. Permohonan bagi penarikan balik secara umum tanpa syarat dan permohonan maaf tidak dibenarkan kerana defendan tidak menunjukkan kesediaan untuk memohon maaf; sebarang permohonan maaf yang dipaksa akan menjadi tidak ikhlas (lihat perenggan 119 & 124–127).]

Cases referred to

Abdul Rahman Talib v Seenivasagam & Anor [1965] 1 MLJ 142b (refd)
Ayob Saud v TS Sambanthamurthi [1989] 1 MLJ 315, HC (refd)
Big Junkyard Sdn Bhd & Anor v Chan Kah Wai (berniaga dibawah nama Ytwo Coffee House) [2022] MLJU 2923, HC (refd)
Cassidy v Daily Mirror Newspapers Ltd [1929] 2 KB 331, CA (refd)
Chen Cheng & Anor v Central Christian Church & John Louis [1998] SCD 199; [1999] 1 SLR 94, CA (refd)
Chin Choon @ Chin Tee Fut v Chua Jui Meng [2005] 3 MLJ 494; [2005] 2 CLJ 569, CA (refd)
Chok Foo Choo @ Chok Kee Lian v The China Press Bhd [1999] 1 MLJ 371; [1999] 1 CLJ 461, CA (refd)
Chong Swee Huat & Anor v Lim Shian Ghee (t/a L & G Consultants & Education Services [2009] 3 MLJ 665, CA (refd)
Chow Kon Yeow v Tan Sri Dato' Tan Kok Ping [2025] 8 MLJ 357, HC (refd)
Cooper v Warburton [1931] 44 BCR 328, SC (refd)
Dato' Dr Low Bin Tick v Datuk Chong Tho Chin and other appeals [2017] 5 MLJ 413; [2017] 8 CLJ 369, FC (refd)
Dato' Hj Mahfuz bin Hj Omar v Muhammad Sanusi bin Md Nor [2021] MLJU 2347, HC (refd)
Dato' Seri Anwar bin Ibrahim v The New Straits Times Press (M) Sdn Bhd & Anor [2010] 2 MLJ 492; [2010] 5 CLJ 301, HC (refd)
Dato' Sri Dr Mohamad Salleh bin Ismail & Anor v Mohd Rafizi bin Ramli [2022] 3 MLJ 758; [2022] 5 CLJ 487, FC (refd)
Dato' Stanley Isaacs (suing by himself and as the administrator of the estate of To' Puan Suzanne Thomas, deceased) v The Government of Malaysia & Ors [2019] 8 MLJ 331, HC (refd)
Datuk Harris Mohd Salleh v Datuk Yong Teck Lee & Anor [2012] 4 MLJ 372, HC (refd)
Dr Chong Eng Leong v Tan Sri Harris bin Mohd Salleh [2017] 4 MLJ 611, CA (refd)
Dr Zakir Abdul Karim Naik v Ramasamy a/l Palanisamy and another suit [2024] 9 MLJ 881, HC (refd)
Frances Joycelyn Nathan & Ors v Siva Subramaniam a/l M Shanmugam (suing as the sole proprietor practicing in the name and style of Subramaniam & Shafiq, an advocate and solicitor's firm) and another appeal [2025] 2 MLJ 69; [2024] CLJU 2900, CA (refd)
Gwee Tong Hiang v Boo Cheng Hau [2016] 2 MLJ 388, CA (refd)
Jeyaretnam Joshua Benjamin v Lee Kuan Yew [1992] SCD 66; [1992] 2 SLR 310, CA (refd)
Keluarga Communication v Normala Samsudin [2006] 2 MLJ 700; [2006] 2 AMR 604, CA (refd)
Lewis and another v Daily Telegraph; Same v Associated Newspaper Ltd [1963] 2 All ER 151, HL (refd)

Lim Guan Eng v Mahiaddin bin Md Yassin [2024] MLJU 2904, HC (refd)
Lim Guan Eng v Ruslan bin Kassim and another appeal [2021] 2 MLJ 514; [2021] 3 MLRA 207, FC (folld)
Lim Guan Eng v Utusan Melayu (M) Bhd [2012] 2 MLJ 394; [2012] 3 MLRH 124, HC (refd)
Liu Thian Leong & Ors v Jee Nyen Chong (sued in his personal capacity and as an office-bearer of the Jawatan Kuasa Dewan Siburan (Siburan Hall Committee) under the provision of s 9(c) of the Societies Act 1966) & Ors [2022] 1 MLJ 420; [2022] 1 MLRA 121, CA (refd)
MGG Pillai v Tan Sri Dato' Vincent Tan Chee Yioun & other appeals [1995] 2 MLJ 493, CA (refd)
Mohamed Apandi bin Ali v Lim Kit Siang [2024] 1 MLJ 306, CA (refd)
Ng Ze Xuan v Tan Sing How & Ors [2025] MLJU 287, HC (refd)
Noor Azman bin Azemi v Zahida bt Mohamed Rafik [2019] 3 MLJ 141, FC (refd)
Nurul Izzah binti Anwar v Tan Sri Khalid bin Abu Bakar & Anor [2018] MLJU 472; [2018] 7 CLJ 622, HC (refd)
Ratus Mesra Sdn Bhd v Shaik Osman Majid & Ors [1999] 3 MLJ 529, HC (refd)
Raub Australian Gold Mining Sdn Bhd (in creditors' voluntary liquidation) v Hue Shieh Lee [2019] 3 MLJ 720; [2019] 3 CLJ 729, FC (refd)
Rookes v Barnard [1964] AC 1129, HL (refd)
S Pakianathan v Jenni Ibrahim [1988] 2 MLJ 173; [1988] 1 CLJ Rep 233, SC (refd)
Syarikat Bekalan Air Selangor Sdn Bhd v Tony Pua Kiam Wee [2015] 6 MLJ 187; [2015] 8 CLJ 477, FC (refd)
Syed Nadri Syed Harun & Anor v Lim Guan Eng and other appeals [2019] 4 MLJ 259, CA (refd)
Tan Sri Dato Vincent Tan Chee Yioun v Haji Hasan bin Hamzah & Ors [1995] 1 MLJ 39, HC (refd)
Tan Sri Lim Kit Siang v YB Dr Siti Mastura bt Muhammad and other suits [2024] MLJU 3687, HC (refd)
Tun Datuk Patinggi Haji Abdul-Rahman Ya'kub v Bre Sdn Bhd & Ors [1996] 1 MLJ 393, HC (refd)
Utusan Melayu (M) Bhd v Dato' Sri DiRaja Hj Adnan bin Hj Yaakob [2016] 5 MLJ 56, CA (refd)
Warisan Pinang Sdn Bhd & Ors v Carolyn Khor Tsai Chen [2023] MLJU 1753, HC (refd)
Yeoh Tseow Suan v Musa bin Haji Hassan [2025] 10 MLJ 660, HC (refd)

Legislation referred to

Defamation Act 1957 ss 8, 9
Enakmen Kawalan dan Sekatan (Pengembangan Agama Bukan Islam Selangor 1988 s 4(1)(a)
Federal Constitution art 11

Penal Code s 298(A)(1)
Rules of Court 2012 O 1A, O 2 r 1, O 78 r 3, 3(2), (3)

Sangeet Kaur Deo (with Harkiranjit Kaur a/p Manjit Singh, Tan Chee Kian, Harshaan bin Muhammad Zamani and Ganeraja Krishnan) (Karpal Singh & Co) for the plaintiff.
Mohd Khairul Azam (with Balqis Hannan bt Zulkifli) (Azam Aziz & Co) for the defendant.

Aliza Sulaiman J:

[1] In 2014, the plaintiff, who needs no introduction, decided to publish an autobiography of herself entitled 'Becoming Hannah: A Personal Journey' ('book'). Little did she know then that the contents of the book would be the subject of, not just one, but two defamation suits.

[2] In the present case, the plaintiff commenced a claim for defamation against the defendant in relation to two articles which were written and published in the defendant's Facebook page ('FB') on 10 and 17 May 2017 and alleged to contain defamatory statements.

[3] After a full trial, I found that the plaintiff has proven her claim on a balance of probabilities and thus, she was awarded a global sum of RM400,000 as general damages and aggravated damages (RM200,000 per publication) with interest thereon and costs. The plaintiff's prayer for an injunction to be issued restraining the defendant, his servants or agents from publishing the impugned words or anything similar to these words was also allowed.

[4] The defendant is unsurprisingly aggrieved by my decision and is pursuing his right of appeal.

[5] These are my full grounds of judgment.

BACKGROUND FACTS

[6] At the pre-trial case management, the parties reached consensus on the agreed facts as follows:

1. The Plaintiff is Yeoh Tseow Suan, commonly known as Hannah Yeoh, a Malaysian citizen of legal age with an address for service at Lot No LG-09A, Level LG, United Point, 10 Jalan Lang Emas, 51200 Kuala Lumpur.

2. The Plaintiff is an advocate and solicitor of the High Court of Malaya. She is a politician and currently the Member of Parliament for Segambut, Federal Territory of Kuala Lumpur. She was also a Member of the Selangor State Legislative Assembly for Subang Jaya from 2008 to 2018. The Plaintiff is the former Speaker of the

Selangor State Legislative Assembly and a former Deputy Minister for the Ministry for Women, Family, and Community Development.

3. The Defendant is a Malaysian citizen of legal age, with an address for service at No 11B, Siaran Naib Canselor, Universiti Utara Malaysia, 06010, Sintok, Kedah Darul Aman.

4. On 10th May 2017, the Defendant authored and published, and/or caused to be published, on his public Facebook page (https://www.facebook.com/kamarul.yusoff.7/posts/1529934363717283), a post titled 'HANNAH YEOH CONTOH HIPOKRASI TERBESAR DAP' ('the first publication').

5. In the first publication, the Defendant authored and published, and/or caused to be published, statements about the Plaintiff, including the following:

'HANNAH YEOH CONTOH HIPOKRASI TERBESAR DAP'

Tertera di mana-mana sahaja dalam pernyataan dan ucapan DAP peri pentingnya prinsip sekularisme dalam perjuangan politik DAP. Kononnya, bagi DAP, Malaysia adalah sebuah negara sekular yang perlu kekal sebagai sebuah negara sekular. Kononnya urusan politik perlu dipisahkan daripada urusan agama. Kononnya pihak yang mahu mencampurkan urusan politik dengan urusan agama, sama ada PAS atau UMNO, perlu ditentang habis-habisan.

Bagaimanapun, sedarkah kita bahawa tatkala DAP melaung-laungkan supaya urusan politik dipisahkan daripada urusan agama, pemimpin DAP sendiri sebenarnya sangat giat mencampurkan urusan politik dengan urusan agama? Dan sebuah buku tulisan Speaker Dewan Undangan Negeri Selangor merangkap Ahli Dewan Undangan Negeri Subang Jaya, Hannah Yeoh, bertajuk 'Becoming Hannah' ('Menjadi Hannah') adalah salah satu bukti nyata mengenainya.

Di dalam buku ini, Hannah Yeoh secara terbuka mengakui bagaimana penglibatan beliau di dalam bidang politik dibantu oleh pihak Kristian, baik dari segi dana mahupun kempen, bagaimana beliau menggunakan kedudukan politik beliau untuk berdakwah mengenai agama Kristian dan sebagainya. Lebih dari itu, beliau juga menyeru ahli-ahli Felo Kristian Seberang Laut khususnya dan penganut agama Kristian umumnya untuk mengikut jejak langkah beliau menceburkan diri dalam bidang politik untuk membina semula Malaysia mengikut acuan agama Kristian.

Jelas berdasarkan kepada segala pengakuan terbuka Hannah Yeoh ini maka peri pentingnya prinsip sekularisme dalam perjuangan politik DAP adalah satu hipokrasi semata-mata. Sebaliknya, gambaran yang diberikan melalui buku ini adalah bahawa, bagi DAP, pemisahan urusan politik daripada urusan agama ini hanya perlu dibuat jika urusan agama ini adalah urusan agama Islam, tetapi jika urusan agama ini adalah urusan agama lain seperti Kristian maka tidak mengapa.

Disertakan di sini beberapa petikan tulisan Hannah Yeoh di dalam buku beliau yang bukan sahaja diendorse oleh Senior Pastor, DUMC, Petaling Jaya, Dr Daniel Ho, Senior Pastor, Skyline SIB, Kota Kinabalu, Dr Philip Lyn, dan Ahli Parlimen Petaling Jaya Utara, Tony Pua, tetapi yang turut diendorse juga oleh Ahli Parlimen Pandan, Rafizi Ramli, dan Ahli Dewan Undangan Negeri Hulu Kelang, Saari Sungib.

MUKA SURAT 23

This is why, today, when I am asked to describe who I am and what I do, I say, 'Hannah Yeoh, lives for God'.

Terjemahan: Inilah sebab mengapa, hari ini, bila saya diminta untuk menerangkan siapa saya dan apa saya buat, saya berkata, 'Hannah Yeoh, hidup untuk Tuhan'.

MUKA SURAT 89

I do not measure my self-worth as a politician by votes or by how popular I am with constituents. I measure my self-worth by the fact that I am a child of God.

Terjemahan: Saya tidak mengukur harga diri saya sebagai seorang ahli politik dengan undi atau dengan popularity saya di kalangan pengundi. Saya mengukur harga diri saya dengan fakta bahawa saya adalah seorang anak Tuhan.

MUKA SURAT 108

I also felt that politics took me away from my true longing, which was to be a preacher. But had I not obeyed God's call, I would not have had the opportunity to preach at churches, to world leaders and to young people, like I am able to do now. God knew the desire of my heart to preach and serve Him. And He made it happen through my political office.

Terjemahan: Saya juga merasakan bahawa politik membawa saya jauh dari impian sebenar saya, iaitu untuk menjadi seorang pendakwah. Tetapi jika saya tidak mematuhi panggilan Tuhan, saya tidak akan mempunyai peluang untuk berdakwah di gereja-gereja, kepada pemimpin-pemimpin dunia dan kepada orang-orang muda, seperti apa yang saya mampu buat sekarang. Tuhan tahu hasrat hati saya untuk berdakwah dan berkhidmat kepada-Nya. Dan Dia membuat ia berlaku melalui jawatan politik saya.

MUKA SURAT 110

It is here that I want to specially address the OCFers (Overseas Christian Fellowship), wherever you are now, to never forget the mission of being trained and equipped and returning home to serve ... We want to encourage fellow OCFers to come home. There is much work to be done to rebuild this beautiful nation. Just like Nehemiah overseeing the reconstruction of Jerusalem's walls, everyone has to be at it, working. God wants to reclaim politics and public service in Malaysia for righteousness' sake. He is looking for God-fearing men and women who are willing to roll up their sleeves and labour in this very demanding field. No experience in politics? Remember, I had none. No finances? I had none. Not a good time yet? I just got married when I ran my first campaign. He uses very ordinary vessels to do extraordinary things. He does this so His Name is glorified.

Terjemahan: Di sini saya ingin bercakap secara khusus kepada ahli-ahli Felo Kristian Seberang Laut, di mana saja kamu berada sekarang, untuk tidak lupa misi dilatih dan dilengkap dan pulang untuk berkhidmat ... Kami ingin menggalakkan kawan-kawan Felo Kristian Seberang Laut untuk pulang. Terdapat banyak kerja perlu dibuat untuk membina semula negara yang indah

ini. Seperti Nehemiah mengawasi pembinaan semula tembok-tembok Jerusalem, setiap orang perlu terlibat, bekerja. Tuhan mahu menuntut semula politik dan perkhidmatan awam di Malaysia demi untuk membetulkannya. Dia sedang mencari lelaki dan anita bertaqwa yang sanggup menggulung lengan baju mereka dan bekerja dalam bidang yang sangat mencabar ini. Tiada pengalaman dalam politik? Ingat, saya tidak ada pengalaman. Tiada wang? Ingat, saya tidak ada wang. Masa sesuai belum tiba? Saya baru berkahwin bila saya pertama kali berkempen. Dia menggunakan saluran-saluran sangat biasa untuk membuat perkara-perkara luar biasa. Dia membuatnya supaya Nama-Nya diagungkan.

6. In relation to the first publication, the Plaintiff lodged a police report on 15 May 2017, Report No: Subang Jaya/004959/17.

7. On 17 May 2017, the Defendant authored and published, and/or caused to be published, his public Facebook another post on (https://www.facebook.com/kamarul.yusoff. 7/post s/1538109116233141) page titled 'LAPORAN POLIS SAYA TERHADAP HANNAH YEOH' ('the second publication').

8. In the second publication, the Defendant authored and published, and/or caused to be published, the content of a police report lodged by him, containing the following statements about the Plaintiff:

LAPORAN POLIS SAYA TERHADAP HANNAH YEOH

Pada 17 Mei 2017, jam 600 pagi, saya berada di rumah, membaca buku tulisan Hannah Yeoh bertajuk 'Becoming Hanna'. Buku ini dicetak oleh Vinlin Press Sdn Bhd yang beralamat di 2, Jalan Meranti Permai 1, Meranti Permai Industrial Park, Batu 15, Jalan Puchong, 47100 Puchong, Selangor. Ia diterbitkan oleh Strategic Information and Research Development Centre yang beralamat di No 2, Jalan Bukit 11/2, 46200 Petaling Jaya, Selangor.

Saya membeli buku ini kerana ia berada di rak terbuka sebuah gedung buku dan kerana saya tahu penulisnya ialah seorang ahli politik yang menjawat jawatan Ahli Dewan Undangan Negeri Subang Jaya dan jawatan Speaker Dewan Undangan Negeri Selangor. Pada hemat saya, disebabkan penulisnya seorang ahli politik, tentulah kandungan buku ini akan banyak menyentuh pembabitan penulisnya dalam bidang politik, iaitu bidang kajian saya.

Bagaimanapun, saya terkejut bila mendapati buku ini mengandungi terlalu banyak kisah dan petikan dari Bible, Kitab yang menjadi pegangan penganut agama Kristian. *Saya berpendapat bahawa buku ini merupakan satu cubaan untuk memujuk, mempengaruhi, atau menghasut seorang lain yang bukan beragama Kristian, termasuk yang beragama Islam, supaya menjadi penganut atau anggota agama Kristian atau supaya cenderong kepada agama Kristian*.

Apa yang ditonjolkan di dalam buku ini adalah penganut agama Kristian adalah insan yang beruntung dan Tuhan agama Kristian adalah Tuhan yang kasih, baik dan adil. Diceritakan betapa Hannah Yeoh sering menerima 'prophecy' (pengetahuan mengenai masa depan) tepat dari Tuhan beliau, termasuk bahawa suatu hari nanti beliau akan bekerja bersama negarawan dan pemerintah ('I would someday work among statesmen and rulers', muka surat 109).

Diceritakan juga betapa Tuhan Hannah Yeoh sering mendatangkan keajaiban dengan memberi bantuan di dalam bentuk yang tidak disangka-sangka tatkala beliau sangat memerlukan. Ini antara lainnya terjadi di dalam kempen pilihan raya (muka surat 50-51), di dalam memenuhi hasrat hati beliau ('the desires of my heart') dan di dalam memenuhi hasrat material beliau ('the material desires I had'), termasuklah dari segi kewangan (muka surat 108–109).

Kesemua cerita ini boleh mendorong pembacanya, termasuk saya, merasa kagum dengan kehebatan Tuhan Hannah Yeoh. Sedangkan pada masa lain beliau selitkan pula catatan mengenai ajaran Kristian yang bertentangan dengan ajaran Islam, termasuklah bahawa manusia adalah anak Tuhan ('His beloved Child' dan 'Child of God', muka surat 22 dan 89) dan Isa/Jesus adalah anak Tuhan dan Tuhan ('the Son of God' dan 'God', muka surat 102).

Hannah Yeoh memang bermaksud supaya buku beliau turut dibaca oleh orang bukan Kristian. Ini tergambar di dalam tulisan beliau berbunyi 'Jika kamu bukan seorang Kristian dan sedang membaca buku ini' ('If you are not a Christian and are reading this book', muka surat 14). Ini selari dengan pendedahan mengenai misi beliau sebagai duta Tuhan dan untuk mencari pengikut ('as 'ambassador of God' and to make disciples of others', muka surat 7).

Hakikat bahawa Hannah Yeoh memang memaksudkan buku beliau turut dibaca oleh orang bukan Kristian juga terbukti kerana buku ini boleh dibeli oleh sesiapa sahaja, termasuklah yang beragama Islam. Ini diakui sendiri oleh Hannah Yeoh di dalam kenyataan media beliau pada 15 Mei 2017 bahawa buku ini 'boleh dibeli secara atas talian di www.gerakbudaya.com atau mana-mana gedung buku utama seperti Kinokuniya, MPH, Popular dan Times'.

Oleh itu, Hannah Yeoh mungkin telah melakukan kesalahan di bawah sesyen 4(1)(a) Enakmen Kawalan dan Sekatan (Pengembangan Agama Bukan Islam) Selangor 1988 (Enakmen No 1/1988) yang menyebut 'Seseorang adalah melakukan kesalahan jika ia memujuk, mempengaruhi, atau menghasut seorang lain yang beragama Islam supaya menjadi penganut atau anggota suatu agama bukan Islam atau supaya cenderong kepada agama itu'.

Selain itu, Hannah Yeoh juga mungkin telah melakukan kesalahan di bawah seksyen 298(A)(1) Kanun Keseksaan kerana: (a) menyebabkan, atau cuba menyebabkan, atau mungkin menyebabkan suasana tidak harmoni, perpecahan, atau perasaan permusuhan, benci membenci atau niat jahat; atau (b) memudaratkan, atau cuba memudaratkan, atau mungkin memudaratkan pemeliharaan keadaan harmoni atau perpaduan, di atas alasan agama.

Ini kerana terdapat bukti bahawa tulisan dalam buku Hannah Yeoh ini mendatangkan keresahan di kalangan umat Islam di negara ini. Apatah lagi bila Hannah Yeoh sendiri mendedahkan betapa beliau menggunakan jawatan politik beliau ('my political office') untuk berdiayah di gereja-gereja, kepada pemimpin-pemimpin dunia dan kepada orang-orang muda ('to preach at churches, to world leaders and to young people', muka surat 108).

Begitu juga seruan Hannah Yeoh agar penganut Kristian membina semula Malaysia kerana Tuhan mahu menuntut semula politik dan perkhidmatan awam

di Malaysia ('God wants to reclaim politics and public service in Malaysia', muka surat 110), ditambah tindakan beliau mengaitkan diri dengan cita-cita untuk membawa kepercayaan dan perkhidmatan Kristian kepada dunia awam ('aims to bring Christian faith and service to the public sphere').

Di dalam satu wawancara yang dimuatnaik oleh laman web Islamic Renaissance Front pada 7 September 2012, seorang pengkaji Evangelical Christianity di Malaysia, Dr Chris Chong, bersetuju bahawa DAP mempunyai pengikut besar di kalangan Kristian evangelical, dan Hannah Yeoh disebutkan sebagai satu contoh baik mengenainya, di mana kawasan pilihan raya beliau didakwa mempunyai bilangan gereja per kapita paling banyak di Malaysia.

Saya sendiri pemah mendengar luahan kawan-kawan beragama Islam yang sangat tidak berpuas hati dengan tindakan Hannah Yeoh ini kerana ia dikatakan bertentangan dengan Perkara 3(1) Perlembagaan Persekutuan yang menyebut bahawa agama Islam adalah agama Persekutuan selain bertentangan dengan Perkara XLVIII(1) Undang-Undang Tubuh Kerajaan Negeri Selangor Darul Ehsan yang menyebut bahawa agama Islam adalah agama Negeri.

Oleh itu, saya minta pihak polis membuat siasatan ke atas beliau di bawah Enakmen dan Kanun ini dan/atau di bawah mana-mana peruntukan undang-undang lain yang berkaitan.

Sekianlah laporan saya.

9. The Plaintiff issued a Notice of Demand dated 19 August 2021 to the Defendant through her solicitors, demanding, among other things, an unequivocal apology and damages for both the first and second defamatory publications.

10. The Defendant responded to the Notice of Demand in a letter dated 23 August 2021, a that he authored both defamatory publications. However, he denied the other claims and raised several defences.

[7] The first publication on 10 May 2017 and the second publication on 17 May 2017 shall hereinafter be referred to as the 'first publication' and 'second publication', respectively, and collectively as the 'publications'.

[8] The words in bold, which the plaintiff claimed to be the sting of the defamation in the first publication and second publication shall hereinafter be referred to as the 'first impugned words' and 'second impugned words', respectively.

THE PLAINTIFF'S CASE

[9] In respect of the first impugned words, the plaintiff pleaded that:

(a) the defendant caused the said first impugned words to be published to the word at large and also caused the notorious, malicious and incorrect first impugned words to be republished by several media publication and were shared at least 250 times by the public;

(b) the former Inspector General of Malaysia ('IGP'), Tan Sri Musa bin Hj Hassan had on 30 January 2020 delivered a speech as a guest speaker in a public forum titled 'Wacana Isu Semasa Perjanjian Damai Hat Yai 1989: PKM Menyerah Diri' held at Universiti Teknologi MARA, wherein he allegedly made defamatory statements, which was at the material time, the subject matter of a suit in the Kuala Lumpur High Court (see *Yeoh Tseow Suan v Musa bin Haji Hassan* [2025] 10 MLJ 660). The defendant caused the republication of the malicious first impugned words by the former IGP at a public forum;

(c) the first impugned words are:

(i) derogatory and defamatory of the plaintiff because, by their natural and ordinary meanings or by innuendo, the meanings attributable to the first impugned words are as follows:

(1) the plaintiff has a motive to proselytise Christianity through her politics;

(2) the plaintiff intends to convert Malaysia into a Christian country in direct violation of the Federal Constitution;

(3) the plaintiff intends to destroy or threaten the religion and/or the practise of Islam in Malaysia;

(4) the plaintiff harbours dishonourable motives as a politician, with a hidden religious agenda;

(5) the plaintiff is an untrustworthy politician who would use her position and influence for unlawful/ illegal purposes and would betray the foundational principles of Malaysia for her personal interest;

(6) the plaintiff is a hypocrite, lacks integrity and is not fit to be a representative of a multiracial/ multi religious country; and

(7) the plaintiff is willing to accept mixing race and religion with politics so long as it is beneficial to Christianity but will condemn those who mix Islam with politics.

(ii) was an intentional manipulation of the contents of the book, by the defendant wherein the defendant deliberately, dishonestly and maliciously misled the public with the intention of painting the plaintiff to be unfit as a politician;

(iii) are offensive, untrue and a malicious attempt to seriously defame the plaintiff publicly and to expose her to hatred, contempt and ridicule with the calculated aim of destroying her reputation as an elected representative of a multiracial and multireligious population; and

(iv) were purposefully authored and published by the defendant and were highly inflammable in the context of a multi racial and multi religious population, thereby deliberately attempting to incite religious issues or tensions and fuelling public sentiments against the plaintiff.

(d) upon having read the first publication, the plaintiff lodged a police report on 15 May 2017.

[10] As regards the second impugned words, it was the plaintiff's position that:

(a) the defendant caused the contents of his police report to be published to the world at large and also caused the notorious, malicious and incorrect second impugned words to be republished by several media publications and shared at least 180 times by the public;

(b) the second impugned words are derogatory and defamatory of the plaintiff because, by their natural and ordinary meanings or by innuendo, the meanings attributable to the second impugned words are the same as per the first impugned words, with the addition that the plaintiff had committed criminal offences;

(c) the publication of the second impugned words, apart from what was stated in sub-paras 9(c)(ii)-(iv)above, was an intentional publication by the defendant of the contents of his police report to deliberately, dishonestly and maliciously mislead the public with the intention of painting the plaintiff as someone who had committed criminal offences and unfit as a politician; and

(d) the defendant's conduct of publishing the contents of his police report to the public at large went beyond calling upon the relevant authorities to investigate, but instead was a malicious act of condemning the plaintiff in the eyes of the public.

[11] The republication by the media publications included Malaysia Today and 1Media; and on 16 May 2017, PRU14.tv, Buletin 247, AIDCNEWS and MYMASSA; on 17 May 2017, Free Malaysia Today, Suara Pakatan Harapan, Utaranews and Kedahnews.com; and on 18 May 2017, Wartawan Menara, Ikatan Muslimin Malaysia, Ibnu Hasyim and TKO Tranungkite.

[12] Therefore, the plaintiff prayed for, among others, the following reliefs:

(a) general, aggravated and exemplary damages;

(b) an injunction restraining the defendant, whether by himself, his servants or his agents from further publishing or causing to be published the

impugned statements or any similar words defamatory of the plaintiff; and

(c) an unconditional public retraction and apology.

THE DEFENDANT'S CASE

[13] The defendant asserted that the publications are not defamatory, were not made with malice and do not satisfy the elements required for a cause of action in defamation against the defendant.

[14] It was further contended by the defendant that his postings do not bear the meanings as pleaded by the plaintiff in paras 9(a) to (g) and 10(a) to (g) of the statement of claim ('SoC'), and that the second publication does not bear the meanings pleaded in paras 18(a) to (h) and 19(a) to (h) of the SoC.

[15] The defendant's position was that, even if the publications are defamatory, he shall rely on the defences of justification, fair comment and qualified privilege as:

(a) the publications constitute a mere opinion and fair criticism directed at the plaintiff in her capacity as a politician, to caution the plaintiff about the risk of violating laws in Malaysia through her writings; and

(b) the defendant, in his capacity as a Senior Lecturer at Universiti Utara Malaysia ('UUM'), and a recognised political analyst who is frequently invited as a panellist or moderator at forums discussing political issues in Malaysia, and a person with responsibilities relating to religion, social and moral grounds, has the right to criticise and correct the plaintiff in her efforts which are contrary to the Federal Constitution, wherein Islam is the official religion and followers of other religions are only granted the freedom to practise their respective faiths.

THE TRIAL AND AGREED ISSUES TO BE TRIED

[16] The trial was held for nine days. Seven witnesses testified for the plaintiffs whilst the defendants called five witnesses. The witnesses are as follows:

(a) YB Hannah Yeoh Tseow Suan, Minister of Youth and Sports ('PW1');

(b) YB Nik Nazmi bin Nik Ahmad, Minister of Natural Resources and Environmental Sustainability ('PW2');

(c) Ms Deborah Loh Wern Ai, contract editor ('PW3');

(d) Mr Chong Ton Sin, Managing Director, Sykt Buku ('PW4');

(e) Mr Nor Miswary bin Ramli, private secretary to the plaintiff ('PW5');

(f) YB Syerleena bt Abdul Rashid, Member of Parliament, Bukit Bendera, Penang ('PW6');

(g) Mr Khalid bin Abdul Samad, Former Minister of Federal Territories ('PW7');

(h) Dr Kamarul Zaman bin Hj Yusoff, senior lecturer, UUM ('DW1');

(i) Tan Sri Ibrahim Shah bin Abu Shah, Government pensioner ('DW2');

(j) Tn Hj Aminuddin bin Yahya, auditor ('DW3'); and

(k) Mr Harizal bin Hassan, social media manager ('DW4').

[17] At the stage of the trial when the defendant called Ms Helen Ang Gaik Poh, the second witness, Ms Sangeet Kaur had raised an objection on the admissibility of her evidence and the defendant's remaining witnesses. I then heard the submissions of the parties before delivering my ruling on 4 February 2025 as follows:

In deciding on the objection raised by the plaintiff, the critical parts of the pleadings are in:

(a) para 16, SoC, specifically the bolded text in the second and third paragraphs of the first publication; and

(b) para 28 of the defence which reads:

> Di perenggan 3 yang digelapkan di muka surat 12 Pernyataan Tuntutan, Defendan tidak membuat sebarang tuduhan ke atas Plaintif dan/atau memfitnah Plaintif apabila menyatakan luahan kawan-kawan Defendan kepada Defendn perasaan tidak puas hati mereka terhadap penulisan Plaintif dalam Becoming Hannah. Kawan-kawan yang meluahkan perasaan kepada Defendan akan dipanggil untuk memberi keterangan.

Based on the defendant's submission, para 28 of the defence is not a pleading on the defences of justification and fair comment. Hence, the plaintiff's arguments on the requirements of O 78 r 3(2), of the Rules of Court 2012 ('the RC 2012') the RC 2012 in relation to the obligation to plead particulars in respect of the defences of justification and fair comment do not apply.

The defendant contended that para 28 of the defence is his pleading that the bolded text in the second and third paragraphs of the first publication is not defamatory as it mentions about 'luahan kawan-kawan beragama Islam' and that these friends will be called to give evidence.

Reading para 28 of the defence and the fact that the defences in relation to the second publication are pleaded in paras 36 to 38 of the defence, the court accepts the defendant's contention that para 28 is a pleading on whether the bolded text in the second and third paragraphs of the first publication is defamatory.

The plaintiff submitted that the alternative meaning to the words has not been pleaded and this was admitted by DW1. Going back to the natural and ordinary meaning of the words, it is well-established that the determination as to whether the words are capable of bearing a defamatory meaning involves a question of law that turns upon the construction of the words published. As submitted by Ms Sangeet, it is an objective test.

As regards the objection by the plaintiff's counsel on the witnesses which have yet to be called by the defendant, I decided to allow Ms Helen Ang and the three remaining witnesses to testify on the issue of whether the bolded text in the second and third paragraphs of the first publication is defamatory.

However, within a few minutes of Ms Helen Ang's examination in chief, the defendant's counsel applied to withdraw Ms Helen Ang as a witness for the defendant and for her evidence to be expunged as, being a non-Muslim, it was not possible for her to give evidence on 'luahan kawan-kawan beragama Islam'.

I allowed the defendant's application and thus, Ms Helen Ang's evidence was expunged and Tan Sri Ibrahim Shah bin Abu Shah was called as the defendant's second witness.

[18] The agreed issues to be tried ('ITBT') for the trial are as follows:

1. Whether the Defendant has published and/or caused to be published the First Impugned Words and the Second Impugned Words to the entire world, which have been republished by several media outlets and shared at least 250 times (for the First Impugned Words) and 180 times (for the second publication).

2. Whether the contents of the First Impugned Words and the Second Impugned Words can bear the natural and/or innuendo meanings as pleaded by the Defendant.

3. If so, whether the natural and/or innuendo meanings as pleaded by the Defendant amount to a strained construction of the words.

4. Whether the First Impugned Words and the Second Impugned Words are defamatory.

The First Impugned Words

5. Whether the Defence of Justification pleaded by the Defendant in relation to the First Impugned Words:

(a) is a valid defence in view of the particulars of Justification pleaded; and

(b) has been proven in view of the particulars of Justification pleaded.

6. Whether the Defence of Qualified Privilege pleaded by the Defendant in relation to the First Impugned Words:

(a) is a valid defence in view of the particulars of Qualified Privilege pleaded; and

(b) has been proven in view of the particulars of Qualified Privilege pleaded.

7. Whether the Defendant has a moral and/or, legal and/or, social duty to author and publish the First Impugned Words.

8. Whether the defence of fair comment pleaded by the Defendant in relation to the First Impugned Words:

(a) is a valid defence in view of the particulars of Fair Comment pleaded; and

(b) has been proven in view of the particulars of Fair Comment pleaded.

The Second Impugned Words

9. Whether the publication of his police report to the public by the Defendant is protected by any of the defences pleaded by the Defendant.

10. Whether the Defendants pleading in relation to the Second Impugned Words that he was expressing an 'opinion' is a defence to Defamation, recognised within the law.

11. Whether the Defendants is entitled to express and publish an 'opinion' that is derogatory and defamatory of the Plaintiff.

12. Whether the Defence of Justification pleaded by the Defendant in relation to the Second Impugned Words:

(a) is a valid defence in view of the particulars of Justification pleaded; and

(b) has been proven in view of the particulars of Justification pleaded.

13. Whether the defence of qualified privilege pleaded by the Defendant in relation to the Second Impugned Words:

(a) is a valid defence in view of the particulars of Qualified Privilege pleaded; and

(b) has been proven in view of the particulars of Qualified Privilege pleaded.

14. Whether the Defendant has a moral and/or, legal and/or, social duty to author and publish the Second Impugned Words.

15. Whether the defence of fair comment pleaded by the Defendant in relation to the Second Impugned Words:

(a) is a valid defence in view of the particulars of Fair Comment pleaded; and

(b) has been proven in view of the particulars of Fair Comment pleaded.

Malice

16. In the event the defences of qualified privilege and/or fair comment have been successfully established, whether the Defendant acted with malice in publishing and/or causing the republication of the First Impugned Words and the Second Impugned Words, which defamed the Plaintiff.

17. Whether by having proven malice, the defences of Qualified Privilege and Fair Comment have been defeated, in the event the defences of qualified privilege and/or fair comment were successfully established.

Reliefs Sought

18. In the event the Plaintiff has successfully proven her claim and defeated defences, if any, whether she is entitled to the relief sought.

The legal principles

[19] The legal principles on the tort of defamation are entrenched by the long line of authorities and these may be summarised as follows:

(a) the plaintiff must prove, on a balance of probabilities, that the statement:

(i) bears defamatory imputations;

(ii) refer to, or reflect upon, the plaintiff's reputation; and

(iii) must have been published to a third person by the defendant,

(see *Raub Australian Gold Mining Sdn Bhd (in creditors' voluntary liquidation) v Hue Shieh Lee* [2019] 3 MLJ 720 at p 735; [2019] 3 CLJ 729 at 743 (FC) and *Nurul Izzah binti Anwar v Tan Sri Khalid bin Abu Bakar & Anor* [2018] MLJU 472; [2018] 7 CLJ 622 (HC); see too, *Ayob Saud v TS Sambanthamurthi* [1989] 1 MLJ 315 (HC)).

(b) the determination on whether the words complained of are defamatory involves a question of law where the court has to decide on:

(i) what meaning the words complained of would convey to an ordinary person; and

(ii) whether under the circumstances in which the words were published, a reasonable man would likely to understand the words in a defamatory way.

In this regard, the court must consider the particular circumstances and the context in which the words complained of were used and published or the entirety of the content of the whole article and not simply on isolated passages (see *Raub Australian Gold Mining;* see too: *Keluarga Communication v Normala Samsudin* [2006] 2 MLJ 700; [2006] 2 AMR 604 (CA); *Dato' Seri Anwar bin Ibrahim v The New Straits Times Press (M) Sdn Bhd & Anor* [2010] 2 MLJ 492; [2010] 5 CLJ 301 (HC); and *Lim Guan Eng v Ruslan bin Kassim and another appeal* [2021] 2 MLJ 514; [2021] 3 MLRA 207 (FC));

(c) the test to be applied in determining whether the statement is capable of bearing a defamatory meaning is an objective test, namely:

(i) whether the words published in their natural and ordinary meaning impute to the plaintiff any dishonourable or discreditable conduct or motives or a lack of integrity on his part; and if the answer is in the affirmative, then the words complained of are defamatory (see *Chok Foo Choo @ Chok Kee Lian v The China Press Bhd* [1999] 1 MLJ 371; [1999] 1 CLJ 461 (CA)). What the ordinary man would infer without special knowledge is the natural and ordinary meaning of the words. More often the sting is not so much in the words themselves as in what the ordinary man will infer from them (see *Lewis and another v Daily Telegraph; Same v Associated Newspaper Ltd* [1963] 2 All ER 151 (HL)); and

(ii) whether the statement has a tendency to excite against the plaintiff the adverse opinion of others, although no one believes the statement to be true, or would the words tend to lower the plaintiff in the estimation of right-thinking members of society generally. The typical type of defamation is an attack upon the moral character of the plaintiff attributing crime, dishonesty, untruthfulness, ingratitude or cruelty (see *Tun Datuk Patinggi Haji Abdul Rahman Ya'kub v Bre Sdn Bhd & Ors* [1996] 1 MLJ 393 (HC)).

(d) the defences available to a defendant are:

(i) justification ie that the words convey a meaning that is true;

(ii) that the words were fair comment on a matter of public interest; and

(iii) that the words are published on an occasion of qualified privilege.

Only if the elements of defamation have been satisfied by the plaintiff would the burden shift to the defendant to prove, on credible evidence, that the words were not defamatory and the pleaded defences (see *Lim Guan Eng v Utusan Melayu (M) Bhd* [2012] 2 MLJ 394; [2012] 3 MLRH 124 (HC)).

[20] In determining the ITBT in this case, I was guided by all the abovementioned legal principles.

ANALYSIS AND FINDINGS OF THE COURT

[21] At the outset, I should state that my analysis, findings and conclusions on the issues were made with the benefit of having read the book in its entirety.

Locus standi

[22] Despite the directions to the learned counsels that their written submissions must be on the issues in the ITBT, as the ITBT was approved as being in accordance with the pleadings of the parties, the learned counsel for the defendant argued as his last point in the written submission (encl 124) that the plaintiff lacks locus as she has brought this action as a Member of Parliament ('MP').

[23] Now, it was obvious that the defendant did not raise the issue of locus standi from the very first opportunity ie in the pleadings, and nor did he apply to strike out the suit on this ground. This issue was clearly an afterthought.

[24] Nevertheless, I shall deal with the issue to put the matter to rest.

[25] The defendant relied on the decision by the Court of Appeal in *Syed Nadri Syed Harun & Anor v Lim Guan Eng and other appeals* [2019] 4 MLJ 259 in submitting that the plaintiff is not entitled to bring the action in defamation against the defendant in her capacity as a MP. The Court of Appeal had referred to the earlier decision in *Utusan Melayu (M) Bhd v Dato' Sri DiRaja Hj Adnan bin Hj Yaakob* [2016] 5 MLJ 56.

[26] However, the law as it stands now has been made clear by the Federal Court in *Lim Guan Eng v Ruslan bin Kassim and another appeal* where it was held, among others, that a public official must enjoy the same rights as other citizens and be allowed to sue for damages for defamation in any individual capacity whether in relation to personal or official matters and that the decision in *Adnan Yaakob's* case cannot be sustained. No distinction is to be drawn between a public official being defamed in his or her personal or official capacity, where the impugned publication clearly singles out and identifies the said individual.

[27] In the instant case, the plaintiff brought the action in her personal capacity. The plaintiff has clearly been named and targeted in the publications.

[28] Therefore, the defendant's submission on the issue of locus was premised on a wrong understanding of the law and was outrightly rejected by this court.

Tort of defamation

[29] The burden of proof lies on the plaintiff to prove that the first impugned words in the first publication and the second impugned words in the second publication are defamatory; and that the first impugned words and the second impugned words refer to the plaintiff; and were published.

[30] Similar to the case of *Nurul Izzah,* the defendant here did not dispute that he had published the first impugned words and the second impugned words in his FB (see paras 3 and 22 of the defence).

[31] However, the defendant referred to excerpts from the evidence by PW1, PW2 and PW5 during cross-examination in contending that the first impugned words do not refer to the plaintiff, but rather to the DAP.

[32] I have considered the defendant's contention and I agree with the plaintiff that it must be rejected outright for the following reasons:

(a) in para 6 of the defence, the defendant pleaded that:

> Perenggan 2 petikan di muka surat 2 Pernyataan Tuntutan merujuk kepada

> Parti Tindakan Demokratik (selepas daripada ini akan di rujuk sebagai 'DAP') sebagai hipokrit kerana dalam masa DAP melaungkan dan mempertahankan prinsip sekularisme yang menuntut urusan agama diasingkan daripada urusan politik, terdapat pemimpin DAP sendiri, seperti Plaintif, yang sebenarnya sangat giat mencampurkan urusan politik dengan urusan agama.

to mean that the first bolded text in the first publication refers to the DAP as being hypocrite. Yet in the same paragraph, the defendant himself pleaded 'terdapat pemimpin DAP sendiri, seperti Plaintif, yang sebenarnya giat mencampurkan urusan politik dengan urusan agama'. By virtue of this pleading, the defendant concedes the reference to the plaintiff within the first bolded text in the first publication;

(b) nowhere else in the defence has the defendant pleaded that the first publication or the first impugned words do not refer to the plaintiff;

(c) the heading of the first publication 'HANNAH YEOH CONTOH HIPOKRASI TERBESAR DAP' makes explicit reference to the plaintiff and the first publication relates directly to the book;

(d) in the earlier part of encl 124, the defendant zealously argued, on the authority of *Lim Guan Eng v Ruslan Kassim & another appeal,* that the three bolded texts in the first publication must be considered in the context of the entire first publication. However, when the defendant's counsel cross-examined PW2 and PW5, he referred them to only the first bolded text in the first publication in suggesting that it does not refer to the plaintiff. The learned counsel did not put it to these witnesses that the first publication does not refer to the plaintiff;

(e) in para 46 of encl 124, the defendant himself submitted that:

> 46. Sekiranya dirujuk kepada keterangan Defendan (DW-1) ketika Pemeriksaan Balas dan Pemeriksaan Semula, *Defendan dengan jelas menyatakan bahawa konteks keseluruhan Artikel Pertama beliau tersebut hanya ingin menyampaikan kepada umum bahawa Plaintif telah mencampurkan politik dengan agama* berdasarkan kepada pengakuan dan penulisan Plaintif sendiri dalam buku Becoming Hannah, yang mana pengakuan dan tindakan Plaintif tersebut jelas sekali tidak sepertimana ungkapan pemimpin DAP bahawa DAP memperjuangkan negara sekular yang memisahkan politik dengan agama. (Emphasis added.)

(f) the defendant did not raise a similar argument in respect of the second publication. Hence, the defendant is deemed to accept that the second impugned words in the second publication refer to the plaintiff. In any event, the second publication is titled 'Laporan Polis Saya Terhadap Hannah Yeoh'. There can be no clearer reference to the plaintiff than this.

[33] In sum, the defendant faced an uphill battle in trying to convince the court that the first impugned words do not refer to the plaintiff when they clearly do. There is no doubt whatsoever that each of the bolded texts in the first publication contains express reference to the plaintiff by her name.

[34] Moving on to the requirement that the first impugned words in the first publication are defamatory, the defendant argued that:

(a) the plaintiff has relied on selected words as they appear in three paragraphs out of nine paragraphs. By not considering the entire first publication in order to understand the real context of the defendant's message in the same has resulted in the plaintiff to misinterpret or 'salah tafsir' the message which the defendant intended to convey, namely that:

(i) there are several matters in the book which are contrary to the teachings of Islam;

(ii) the book is placed on the rack under the subject of 'Politics' and not 'Religion' and sold openly to the public. Hence, the defendant is concerned that there are elements in the book which portrays Christianity in an attractive and beautiful way such that it can potentially induce the readers to feel fascinated and become inclined to like the Christian religion;

(iii) the plaintiff's confessions in the book on the involvement of religion in her political career contradict DAP's stand in championing secularism;

(iv) the plaintiff clearly urged the members of the Overseas Christian Fellowship ('OCF') to return to Malaysia to rebuild the country in the same way as Nehemiah overseeing the reconstruction of Jerusalem's walls; and

(v) the defendant feels a sense of responsibility to inform the public, especially the Muslims in this country, to be careful as to the contents of the book and not to be influenced or encouraged with the implied message which the plaintiff wants to convey in the book.

(b) the entire publication of the first publication was based on the defendant's understanding, findings and conclusion through the translation of the excerpts of the book in the national language, which was not disputed by the plaintiff.

[35] Order 78 r 3 of the RC 2012 on the 'Obligations to give particulars' reads as follows:

3 Obligations to give particulars (O 78 r 3)

A (1) Where in an action for libel or slander the plaintiff alleges that the words or matters complained of were used in a defamatory sense other than their ordinary meaning, he must give particulars of the facts and matters on which he relies in respect of such sense.

B (2) Where in an action for libel or slander the defendant alleges that, in so far as the words complained of consist of statements of fact, they are true in substance and in fact, and in so far as they consist of expressions of opinion, they are fair comment on a matter of public interest, or pleads to the like effect, he must give particulars stating which of the words complained of he alleges are statements of fact and of the facts and matters he relies on in support of the allegation that the words are true.

C (3) Where in an action for libel or slander the plaintiff alleges that the defendant maliciously published the words or matters complained of, he need not in his statement of claim give particulars of the facts on which he relies in support of the allegation of malice, but if the defendant pleads that any of those words or matters are fair comment on a matter of public interest or were published upon a privileged occasion and the plaintiff intends to allege that the defendant was actuated by express malice, he must serve a reply giving particulars of the facts and matters from which the malice is to be inferred.

D

E **[36]** I have given careful consideration to the defendant's submission and I find that, in the SoC, the plaintiff had pleaded the first publication in its entirety to provide the complete context and the parts in bolded text are the sting of the defamation.

F **[37]** The plain and natural meanings, and innuendo meanings of the first impugned words were also pleaded in paras 9 and 10 of the SoC, among others, that the plaintiff has a motive to proselytise Christianity through her politics, intends to convert Malaysia into a Christian country in direct violation of the Federal Constitution and intends to destroy or threaten the religion or the practise of Islam in Malaysia.

G

[38] In the defence, the defendant denied the meanings that can be conveyed by the first impugned words as pleaded by the plaintiff and labelled them as 'sangkaan melampau'. Furthermore, no alternative meanings to the first impugned words were pleaded.

H

[39] In fact, during cross-examination, the defendant agreed that the first impugned words and the second impugned words do carry the meanings as pleaded by the plaintiff.

I

[40] In the circumstances, I was persuaded by the plaintiff's submission that it is now not open to the defendant to submit that the meanings ascribed by the plaintiff are 'salah tafsiran'.

[41] Moreover, the defendant's intention on what he actually meant or wanted to convey is irrelevant. What is relevant is what the ordinary man understood from the first impugned words; it is an objective test (see *Cooper v Warburton* [1931] 44 BCR 328 and *Cassidy v Daily Mirror Newspapers Ltd* [1929] 2 KB 331 as cited in *Tan Sri Dato Vincent Tan Chee Yioun v Haji Hasan bin Hamzah & Ors* [1995] 1 MLJ 39 and *Jeyaretnam Joshua Benjamin v Lee Kuan Yew* [1992] SCD 66; [1992] 2 SLR 310 as referred to in *Nurul Izzah*).

[42] An ordinary man would understand the first impugned words to mean, among others, that the plaintiff was spreading Christianity, which is against the law, and the plaintiff was therefore a criminal.

[43] The first impugned words are defamatory as they impute the lack of trustworthiness in that the plaintiff is a politician who harbours a hidden religious agenda and uses her political position to spread Christianity to Muslims, and who mixes religion with politics as long as it benefits Christianity but will condemn those who mix Islam with politics.

[44] As regards the requirement that the second impugned words in the second publication is defamatory, the defendant similarly contended that the second publication has not been read as a whole and that the plaintiff relied only on six paras out of 15.

[45] I find that the plaintiff has also pleaded the second publication in its entirety, with the sting of the defamation shown in the bolded text.

[46] The defendant had similarly conceded in cross-examination that the second impugned words carried the meanings as pleaded by the plaintiff in paras 18 and 19 of the SoC. No alternative meaning was pleaded by the defendant. This boosts the plaintiff's submission that the meanings as gathered from both the first impugned words and the second impugned words were the natural and ordinary meaning which left even the defendant unable to plead any alternative meanings.

[47] In encl 124, the defendant's counsel drew the court's attention to six phares, namely:

(a) 'to make disciples of others';

(b) 'ambassadors of God';

(c) 'Child of God';

(d) 'apolitical';

(e) 'if you are not Christian and reading this Book'; and

(f) 'God want to reclaim politics for righteousness sake',

and the defendant's evidence during the trial in submitting that the second impugned words were not read in the context as understood and interpreted by the defendant as a person who read the book.

[48] Reference was also made to PW7's evidence where he agreed that the contents of the book are contrary to the teachings of Islam and he only read the first four or five chapters in the book as it did not jive with his Islamic world view. Even PW4 merely flipped some pages and he did not read the whole book.

[49] In short, the defendant again relied on his understanding and intent of the book, which the law has laid down, is irrelevant in determining the meaning of the first impugned words and the second impugned words. PW4 and PW6 never suggested that the plaintiff was trying to convert Muslims through the book and that she was a criminal.

[50] Moreover, in relation to the second impugned words, no explanation was forthcoming in the entire written submission by the defendant as to why there was a need to publish his police report, if his intention was truly for it to be investigated by the police.

[51] The defendant takes the position that his understanding of the book led him to lodge a police report and publish the same 'bagi mendedahkan kepada umum berkenaan kandungan Becoming Hannah yang jelas bercanggah dengan ajaran agama Islam'. The teachings of the Christian faith are, of course, as with the other faiths in the world, different from that of the Muslim faith.

[52] If the defendant truly believed that the plaintiff has committed an offence of proselytisation through the book, lodging the police report is sufficient. The matter should be left to the police to investigate. To date, the plaintiff has not been charged for any criminal offence in relation to the book. There is merit in the plaintiff's submission that the defendant was not genuinely interested in having the issue investigated but instead intended to incite the feelings of the readers against the plaintiff.

[53] Publishing words which convey the meaning that the plaintiff is a criminal is most obviously derogatory.

[54] Suggesting that the plaintiff who holds public office is a threat to Islam and an untrustworthy politician and that she has abused her public positions to advance an ulterior religious agenda, ie to Christianise the country, would

certainly expose, and has exposed, her to hatred, ridicule and contempt in a multiracial and multireligious nation where religious issues are very sensitive, but unfortunately often used by irresponsible parties to gain a sense of relevancy and for their own ulterior motives.

[55] Further suggesting that the plaintiff harbours an intention to change the religion of this country is akin to challenging a fundamental provision in the Federal Constitution which places Islam as the official religion of Malaysia.

[56] In sum, I was satisfied that the plaintiff has discharged the burden of proving, on a balance of probabilities, that the first impugned words in the first publication and the second impugned words in the second publication are defamatory of the plaintiff in that they suggest, among others, that the plaintiff is a threat to Islam and that she has abused her public position to Christianise the country.

The pleaded defences

Justification

[57] Section 8 of the Defamation Act 1957 (Act 286) stipulates that:

> 8 Justification
>
> In an action for libel or slander in respect of words containing two or more distinct charges against the plaintiff, a defence of justification shall not fail by reason only that the truth of every charge is not proved if the words not proved to be true do not materially injure the plaintiff's reputation having regard to the truth of the remaining charges.

[58] In *Frances Joycelyn Nathan & Ors v Siva Subramaniam a/l M Shanmugam (suing as the sole proprietor practicing in the name and style of Subramaniam & Shafiq, an advocate and solicitor's firm) and another appeal* [2025] 2 MLJ 69; [2024] CLJU 2900, the court illuminated on the defence of justification as follows:

(a) a defendant will have sufficiently proven the defence of justification if he is able to prove the truth or the substantial truth of his own meanings of the impugned words;

(b) a defendant who is unable to prove the truth of all the material statements in the alleged libel may nevertheless succeed in the defence of justification where the defendant can show that the words not proved to be true or truthful do not materially injure the plaintiff's reputation. It is the truth of the imputations of the overall statement and not the truth of every word that is material; and

(c) in relying on the defence of justification, the burden of proof is on the defendant to prove that the allegations made are true or substantially true.

[59] It is imperative on the defendant to plead and prove the facts on which he relies to show justification. It is not enough for the defendant to prove that he believed the allegations were true; he must establish the truth of the allegations (see *S Pakianathan v Jenni Ibrahim* [1988] 2 MLJ 173; [1988] 1 CLJ Rep 233; see too, *Mohamed Apandi bin Ali v Lim Kit Siang* [2024] 1 MLJ 306, *Chong Swee Huat & Anor v Lim Shian Ghee (t/a L & G Consultants & Education Services* [2009] 3 MLJ 665; *Gwee Tong Hiang v Boo Cheng Hau* [2016] 2 MLJ 388; *Dr Chong Eng Leong v Tan Sri Harris bin Mohd Salleh* [2017] 4 MLJ 611; and *Liu Thian Leong & Ors v Jee Nyen Chong (sued in his personal capacity and as an office-bearer of the Jawatan Kuasa Dewan Siburan (Siburan Hall Committee) under the provision of s 9(c) of the Societies Act 1966 & Ors* [2022] 1 MLJ 420; [2022] 1 MLRA 121).

[60] Judging from the length of the defendant's written submission on his defences (see paras 102–127, encl 124), it appears that he placed the most reliance on the defence of justification.

[61] The plaintiff has equally submitted at length in providing detailed rebuttals on the defendant's pleaded particulars and reliance on selected pages of the book (see paras 54–91, encl 130).

[62] In relation to the first impugned words, the defendant has pleaded the particulars of justification in para 19(a) to (d) of the defence and in relation to the second impugned words, in para 36(a) to (g) of the defence.

[63] Basically, the defendant relied on several paragraphs of the book to justify the first impugned words and the second impugned words. The defendant claimed that he was justified in publishing the first impugned words and the second impugned words as the paragraphs from the book which he has pleaded support his contention that the first impugned words and the second impugned words are substantially true in fact and substance.

[64] By virtue of O 78 r 3(2) of the RC 2012 as quoted earlier, where a defendant alleges that the words complained of consist of statements of facts, they are true in substance and in fact, he must give particulars stating which of the words complained of he alleges are statements of fact and of the facts and matters he relies on in support of the allegation that the words are true.

[65] Although the defendant has pleaded the defence of justification and refered to s 8 of the Defamation Act 1957, I agree with the plaintiff's

submission that the defendant has failed to plead that the impugned words are true or substantially true. Further:

(a) the pleaded particulars in relation to the defence of justification of both impugned statements, which are essentially a handful of passages from the book:

(i) do not set out the which parts of the publications or impugned statements were true; and

(ii) do not assist the defendant in proving that the impugned statements were true or substantially true.

(b) the defendant's opinion is based on his understanding of only a few selected passages from the book, and cannot tantamount to proving the truth or substantial truth of the impugned words.

[66] As alluded to earlier, the defendant denied that the first impugned words and the second impugned words were capable of carrying the meanings as pleaded by the plaintiff. According to the defendant, the meanings pleaded by the plaintiff were a 'strained construction'. However, the defendant did not provide any possible alternative meanings.

[67] The defendant argued that the plaintiff did not plead the alleged non-compliance with O 78 r 3(2) of the RC 2012 in the reply to defence and no prejudice was caused to the plaintiff by the purported omissions in the defendant's pleadings. In any event, the defendant asserted that he has complied with the technical and substantive requirements of O 78 r 3(2) of the RC 2012 and even if the court thinks otherwise, O 1A and O 2 r 1 of the RC 2012 were invoked by the defendant.

[68] Now, it is well entrenched that a party must plead facts, not law. Hence, there is no legal requirement for the plaintiff to state O 78 r 3(2) of the RC 2012 in the reply to defence.

[69] As regards O 1A and O 2 r 1 of the RC 2012, in my opinion, the defendant cannot call upon these provisions to cure his non-compliance of O 78 r 3(2) of the RC 2012, which cannot be treated as a mere irregularity.

[70] In order to justify the first impugned words, the defendant relied on the pleaded particulars, which are:

(a) a repetition of the contents of the first impugned words;

(b) the fact that the plaintiff wrote about the miracle of Christianity and Christians, her prophecies and how the church had helped her in politics and daily life; and

(c) the following paragraphs from the book:

(i) at p 102:

> It dawned on me that politics is one end of the earth for many Christians in Malaysia. Not many want to hold up a light here. There are plenty of sermons and discussions about being a light in the marketplace, but rarely in politics. Yet, those in the political sphere need to see Jesus, too.
>
> I hope my life in politics has achieved this to the degree that God is glorified and gets the credit for whatever I have supposedly accomplished. It is all His doing; I am only a vessel.

(ii) at p 108:

> I also felt that politics took me away from my true longing, which was to be a preacher. But had I not obeyed God's call, I would not have had the opportunity to preach at churches, to world leaders and to young people, like I am able to do now.

(iii) at p 109:

> I've always had a dream to go to Washington, D. C. and this was fulfilled when I went on an all-expenses paid trip there for a leadership training programme, during which I got to attend the inauguration of President Barack Obama in his first term. I was also sponsored to represent the Selangor Government at the Commonwealth Parliamentary Conference in London, and even managed to go to Europe to observe the workings of the European Union as well. These were ways in which God answered the desires of my heart. Another amazing provision from Him was the funds needed for me to undergo a caesarian operation for my first child. Ram and I did not have enough personal savings to come up with the RM11,000 required for the procedure at the private hospital we wanted. We decided to leave this to God and planned to have the caesarian at a cheaper clinic. Before my file was transferred to the clinic, we went to SIB Skyline in Kota Kinabalu where I had been invited to preach. The pastor, Dr Philip Lyn, told the congregation that he felt led to collect an offering for my baby. When the envelope was handed to Ram and I, there was RM11,300 inside. My Jehovah Jireh had done it again.

(iv) at p 110:

> It is here that I want to specifically address the OCFers (Overseas Christian Fellowship), wherever you are now, to never forget the mission of being trained and equipped and returning home to serve ... We want to encourage fellow OCFers to come home. There is much work to be done to rebuild this beautiful nation. Just like Nehemiah overseeing the reconstruction of Jerusalem walls, everyone has to be at it, working. Gods wants to reclaim politics and public service in Malaysia for righteousness' sake. He is looking for God fearing man and

> women who are willing to roll up their sleeves and labour in this very demanding field. No experience in politics? Remember, I had none. No finances, I had none. Not a good time yet: I just got married when I ran my first campaign. He uses very ordinary vessels to dol extraordinary things. He does this so His name is glorified.

[71] However, the passages as quoted above:

(a) do not support:

(i) the meanings of the first impugned words; and

(ii) the defendant's allegation that the plaintiff is guilty of criminal offences which are in direct violation of the Federal Constitution. None of the particulars relate to her being investigated or her book being banned.

(b) do not allude to the plaintiff using her political position to spread Christianity (which is an unlawful agenda), attempting to spread Christianity to Muslims, mixing her religion with politics, threatening the official religion of this country or harbouring a hidden religious agenda;

(c) are taken in isolation of an entire paragraph, page or chapter and therefore taken entirely out of its context;

(d) are from the very end of the book, without accounting for the entire narrative that came prior to it; and

(e) relate to the plaintiff's experiences, all of which she attributes entirely to her faith. This is a deeply personal matter between her and her religious belief.

[72] At the trial, much was said about the phrase 'God wants to reclaim politics and public service in Malaysia for righteousness' sake'. The plaintiff's counsel 'tested' the defendant's and his witnesses' ability to understand the English words used, and the context in which they were used, in the book. Suffice to say, with respect, that the results revealed questionable proficiency in the English language and this impacted on their understanding of the book and the interpretion of the words used in the book. Consequently, and most pertinently, the defence of justification was based on a flawed understanding of the passages from the book as selected by the defendant himself. If at any point of time when reading the book, the defendant felt swayed to convert to Christianity, then it is his faith that needs strengthening.

[73] Ultimately, the pleaded particulars of justification do not in any way prove that the meanings pleaded by the plaintiff are true or substantially true.

[74] Proceeding next to the second impugned words, the defendant pleaded the particulars of his defence of justification as follows:

(a) he lodged his police report pursuant to the plaintiff having lodged a police report against him;

(b) in his police report:

(i) he had cited several parts of the book and provided his comments based on his understanding; and

(ii) he stated his opinion that the book amounts to an attempt to influence or persuade non-Christians, including Muslims, to become Christians or be inclined towards it. In coming to this opinion, he relied on p 14, para 1 of p 109 and the last paragraph at p 50 of the book.

(c) when he stated that the plaintiff's stories could influence others to be in awe of the greatness of Hannah Yeoh's God, wherein she also subtly included Christian teachings which are inconsistent with Muslim teachings ie phrases such as 'His beloved child', 'Child of God', 'Son of God' and 'God', the defendant relied on the second last line at p 22, para 2 at p 28 and the song at p 102 of the book;

(d) when the defendant stated that there is evidence of unease within the Muslims of this country, even more so with her own admission that she uses her political office to preach at churches, to world leaders and to young people, the defendant relied on the second paragraph at p 108 of the book; and

(e) when the defendant stated that the plaintiff may have committed an offence under s 4(1)(a) of the Enakmen Kawalan dan Sekatan (Pengembangan Agama Bukan Islam Selangor 1988 (Enakmen No 1/1988) and s 298(A)(1) of the Penal Code, he used the word 'mungkin' and he repeated his reliance on the passages from the book cited in the preceding particulars.

[75] No doubt the defendant, like any other citizen, resident or victim, is entitled to lodge a police report. However, in establishing his defence of justification in this suit, the defendant did not plead any particulars in relation to the need for him to publish the contents of his police report to the world.

[76] In any case, the defendant essentially relied on his opinion based on his understanding of a a few lines from the book. This in no way establishes the truth or substantial truth of the second impugned words.

[77] It was also astounding that in para 124, encl 124, the learned counsel for the defendant referred to the matter regarding 'luahan kawan-kawan beragama

Islam' in submitting that this is in relation to the defence of justification when, as elaborated in para 19 above, the counsel had earlier taken the opposite stance that these 'luahan' are not related to the defences at all and this led to the ruling by this court to allow the defendant's witnesses to give evidence confined only to the meaning of those words.

[78] In sum, after having read the defendant's pleadings and the parties' submissions, and having closely examined the paragraphs in the book which were pleaded in the particulars of the defence of justification, I was unable to make a finding in the defendant's favour because the burden of proof is on him to justify the meanings as pleaded by the plaintiff as he did not plead any alternative meanings and he conceded under oath to the meanings as pleaded by the plaintiff. This means that the defendant is required to justify that the plaintiff:

(a) is a criminal as she intends to proselytise Muslims in this country through her politics;

(b) harbours a hidden religious agenda and therefore is a politician who cannot be trusted;

(c) is a threat to Islam in Malaysia;

(d) is a hypocrite and lacks integrity and is not fit to be a representative of the people; and

(e) is willing to accept mixing race and religion with politics so long as it benefits Christianity but will condemn those who mix Islam with politics.

However, the defendant did not adduce any evidence of any Muslim having been converted to Christianity upon reading the book or that the plaintiff has been convicted of the crime of proselytising Muslims in this country. The defendant's pleaded particulars reflect only 11 paragraphs or pages out of the book of 111 pages. The selection of 11 paragraphs, isolating them from the rest of the book, and of the context in which the book was written, would obviously not provide the reader with a proper understanding of the entire book. By making stinging statements and allegations about the plaintiff without fully understanding the book in its proper context, the defendant had acted with malice.

Fair comment

[79] Section 9 of the Defamation Act 1957 reads as follows:

9 Fair comment

> In an action for libel or slander in respect of words consisting partly of allegations of fact and partly of expression of opinion, a defence of fair comment shall not fail by reason only that the truth of every allegation of fact is not proved if the expression of opinion is fair comment having regard to such of the facts alleged or referred to in the words complained of as are proved.

[80] The Federal Court in *Dato' Sri Dr Mohamad Salleh bin Ismail & Anor v Mohd Rafizi bin Ramli* [2022] 3 MLJ 758; [2022] 5 CLJ 487 has affirmed the position that, in order to succeed in the defence of fair comment, the defendant must establish the following elements:

(a) the words complained of are comment, although they may consist or include inferences of fact;

(b) the comment is on a matter of public interest;

(c) the comment is based on facts; and

(d) the comment is one which a fair-minded person can honestly make on the facts proved.

[81] In *Chok Foo Choo,* it was held that 'Fair' in the defence of fair comment does not mean 'not lopsided'. It means 'honest' and that:

> In order that defeasible immunity may attach to the publication of any matter purporting to be comment, such comment must conform to each and every of the following conditions:
>
> (i) It must be honest, that is to say, it must contain nothing which is not a genuine expression of the opinion actually entertained by the party defaming;
>
> (ii) It must be based on facts stated or assumed, and such facts, unless expressly or impliedly admitted by the party defamed, must be proved by the party defaming to be true;
>
> (iii) It must be relevant to, and arise out of, the facts so truly stated or assumed as aforesaid, and must not contain or introduce any new or independent defamatory matter;
>
> (iv) It must not contain any matter imputing discreditable motives to the party defamed, or any matter reflecting upon him otherwise than as the author of, or the person responsible for, or concerned in, or connected with the particular conduct, work, or thing which constitutes the subject of the comment.

(See too, *Nurul Izzah*.)

[82] The defendant placed emphasis on the case authorities which have expounded on the distinction between a statement of fact and a comment (see

Chen Cheng & Anor v Central Christian Church & John Louis [1998] SCD 199; [1999] 1 SLR 94; *Dato' Sri Dr Mohamad Salleh*; and *Datuk Harris Mohd Salleh v Datuk Yong Teck Lee & Anor* [2012] 4 MLJ 372) in submitting that he was entitled to rely on the defence of fair comment because the publications were made in the public interest as the book was authored by a well-known politician, sold in open bookshelves and read by many including Muslims.

[83] Furthermore, the defendant's statements were a conclusion, comment and/or observation on the book whereby he was worried as to the contents which discussed on prophecies and miracles experienced by the plaintiff.

[84] However, the plaintiff has raised a valid issue on pleadings in that the defendant has failed to comply with the mandatory requirements of O 78 r 3(2) of the RC 2012.

[85] The defendant's pleadings on fair comment for the first publication and second publication are in paras 21(a) to (h) and 38(a) to (h) of the defence, respectively. Clearly, nowhere do the particulars pleaded relate to which of the words complained of, he alleges are statements of fact.

[86] Therefore, the defendant's pleading in relation to this defence and the publications is defective and a non-starter.

[87] Even if this court takes the view that the defendant's pleadings are not defective and can be considered, the defence still fails as:

(a) the first impugned words and the second impugned words in the publications are by no means fair. They are based on an erroneous understanding of the book and in particular reliance on only a handful of paragraphs from the book. Naturally, this would immediately result in any comment about the book to be incomplete, unfair and selective;

(b) in respect of the first impugned words, there are simply no facts at all which are the basis for the defendant's allegations; and

(c) in respect of the second impugned words, again there are no facts which are the basis for the defendant's publication of his police report and allegations.

[88] In any event, this defence is defeated by the fact that the publications by the defendant were actuated by malice, as shall be addressed in the succeeding part of this judgment.

Qualified privilege

[89] The final defence raised by the defendant in para 20 of the defence is qualified privilege.

[90] To establish this defence, the defendant must fulfil two requirements, namely:

(a) the occasion on which the communication was made arises from a legal, moral or social duty on the defendant's part to make the communication; and

(b) there is a corresponding duty or interest on the part of the recipient to receive it.

Whether an occasion is a privileged occasion depends on the circumstances of each case and the burden of proof lies on the defendant. It is for the judge to rule whether there is an occasion of privilege. Once the judge has decided as matter of law that the occasion is privileged, the plaintiff may rebut this privilege by proving that there was express malice. The duty or interest which found an occasion of qualified privilege must exist in fact; it is an objective question. A mere bona fide or honest belief by the defendant that such a duty or interest exists is not enough as the privilege depends on the occasion of the publication and not the state of mind of the defendant (see *Syarikat Bekalan Air Selangor Sdn Bhd v Tony Pua Kiam Wee* [2015] 6 MLJ 187; [2015] 8 CLJ 477; *Dato' Dr Low Bin Tick v Datuk Chong Tho Chin and other appeals* [2017] 5 MLJ 413; [2017] 8 CLJ 369; *Nurul Izzah, Dato' Hj Mahfuz bin Hj Omar v Muhammad Sanusi bin Md Nor* [2021] MLJU 2347; *Warisan Pinang Sdn Bhd & Ors v Carolyn Khor Tsai Chen* [2023] MLJU 1753; *Mohamed Apandi, Dr Zakir Abdul Karim Naik v Ramasamy a/l Palanisamy and another suit* [2024] 9 MLJ 881; and *Ng Ze Xuan v Tan Sing How & Ors* [2025] MLJU 287 and *Gatley on Libel and Slander* (13th Ed) para 15–015 at pp 533–534).

[91] The defendant claimed that he has fulfilled the criteria for this defence to apply as he is a senior lecturer and political analyst who is often invited to be a moderator or panellist in forums which discuss on political issues in Malaysia. In addition, as an educator and a Muslim, he has a religious, social and moral duty to inform and warn the public, especially Muslims, regarding the contents of the book as he is concerned that they would be influenced with the greatness of Jesus, Lord and Christianity. The defendant has the right to reprimand and correct the plaintiff in her efforts which are contrary to the Federal Constitution insofar as the propagation of Christianity among persons professing the religion of Islam.

[92] In my assessment, the publications were not published on an occasion of privilege for the following reasons:

(a) the defendant is not an elected representative who would be duty-bound to raise matters of public importance and neither is he a leader of a religious body or authority in charge of Islamic administration or the affairs of the Muslim community;

(b) through cross-examination, it was established that the defendant's qualifications relate to political sciences whereby his publications focused on the development of politics in Nigeria. With respect, the defendant is clearly not an expert in the field of religion or comparative religion or law, to provide any expert views on the subject;

(c) again, with respect, the defendant is not a religious leader who is recognised as an authoritative figure in matters of Islamic compliance. No religious body has found it necessary to take any action against the plaintiff or even issue a statement relating to the book. The plaintiff is not entitled to set the standard by which others must abide. Muslims are not under any obligation to adopt his personal interpretations. Consequently, he cannot assert that he is under any religious or moral duty to impose his views, which he has interpreted as a 'warning' to others; and

(d) the defendant is not from any investigative body and was not legally trained, nor qualified by training or experience, to determine a person's potential guilt in relation to specific sections of the Penal Code and provisions of the Federal Constitution. What amounts to proselytizing in law, for the purposes of amounting to an offence, was a matter beyond the defendant's qualifications as evident from his evidence in cross-examination that 'sebut sahaja, sudah menyebar'; that the plaintiff mentioning openly her faith amounted to proselytisation.

[93] Even if I am found to have erred in the above finding, this defence is defeated by the fact that the publications by the defendant were actuated by malice, which will be addressed below.

Malice

[94] Where a defendant pleads the defence of qualified privilege or fair comment, O 78 r 3(3) of the RC 2012 requires a plaintiff who intends to allege that the defendant was actuated with malice to plead the particulars of the facts and matters on which malice is to be inferred in the reply to the defence. Failure to plead such particulars is fatal to a plaintiff's allegation of express malice (see *Nurul Izzah* and *Ratus Mesra Sdn Bhd v Shaik Osman Majid & Ors* [1999] 3 MLJ 529).

[95] In this case, the plaintiff has pleaded the particulars of malice in relation to the first impugned words at para 25 and sub-paras 25.1–25.14.4 and the second impugned words at para 45 and sub-paras 45.1–45.15 of the reply to defence.

[96] In his submission, the defendant asserted that the publications were made '... secara suci hati kerana Defendan telah membaca buku Plaintif tersebut dan perkara yang berkait dengan Plaintif yang telah diperkatakan oleh Defendan dalam penerbitannya adalah sepenuhnya berdasarkan kepada pemahaman dan tafsiran Defendan terhadap penulisan Plaintif tersebut'. The defendant relied on his evidence that:

> ... saya tidak pernah menjadi ahli kepada mana-mana, tidak menjadi ahli kepada mana-mana politik. Saya tidak ada apa nama, tidak ada apa-apa agenda politik. Sebaliknya saya, macam yang saya sebut tadi, sebelum ini bahawa saya pada waktu tersebut adalah fellow utama kepada Institut Kajian Strategi Islam Malaysia. Jadi kami, IKSIM berbincang mengenai kandungan buku ini. Dan ada pakar undang-undang, ada pakar agama di dalam itu. Jadi itulah, saya buat itu bukalah tulisan yang saya persendirian. Tetapi adalah mewakili institusi. Cuma saya sahaja yang apa nama itu, dikeluarkan, diputuskan untuk dikeluarkan atas nama saya. Saya merasakan bahawa menjadi kewajipan saya dan IKSIM juga, ya, menjadi kewajipan IKSIM selaku institusi yang menjaga kedudukan agama Islam. Dan tugas saya sebagai orang Islam semua, untuk memastikan bahawa tidak, kedaulatan agama Islam di negara kita dan kedudukan di, agama Islam sebagai agama persekutuan serta perkara mengenai larangan penyebaran agama bukan Islam kepada orang Islam, itu tidak berlaku. Jadi itulah perkara utama yang mendorong saya dan IKSIM untuk menghighlightkan dan kemudiannya untuk saya membuat laporan polis. Laporan polis itu pun it's just a very fair report, police report. Tidak menuduh, tangkap, kata tangkap dia ini, haramkan buku dia ini. Hanya suruh siasat sama ada telah melakukan kesalahan ataupun tidak.

[97] However, as submitted by the plaintiff, the defendant did not provide any explanation on:

(a) whether he had verified his understanding and interpretation of the book;

(b) how he could have captured the essence and real context of the book and provided his readers with a balanced view of the same by merely relying on a handful of passages;

(c) why conclusive statements, among others, 'Hannah Yeoh contoh hiprokrasi terbesar DAP'; 'Bagaimana beliau menggunakan kedudukan politik beliau untuk berdakwah mengenai agama Kristian dan sebagainya'; and 'Menyeru ahli-ahli Felo Kristian Seberang Laut khususnya dan penganut agama Kristian umumnya untuk mengikut jejak langkah beliau menceburkan diri dalam bidang politik untuk

membina semula Malaysia mengikut acuan agama Kristian' needed to be used; and

(d) why he needed to publish his police report, if his intention was truly to have the matter investigated.

[98] In the final analysis, I find that the defendant was actuated by malice in relation to:

(a) the first impugned words, in view of the following:

(i) the defendant ignored the fact the book was a personal story of the plaintiff's life journey and her faith;

(ii) the defendant only selected and inserted four paragraphs into the first publication without informing readers that the book consisted of 111 pages and was published in 2014 and its sale had never been banned by the authorities;

(iii) the first publication is in the national language, thereby deliberately targeting a Malay reader pool, while knowing that the book was only published in the English language;

(iv) the defendant's lack of understanding of the context of the entire Book and his perception, as stated in evidence, that 'sebut sahaja, sudah menyebar';

(v) the defendant added to the first impugned words, allegations which never arose from the book, and deliberately used inflammatory words such as 'hiprokrasi', 'berdakwah' and 'menggunakan kedudukan politik' and compared the contents of the book to the teachings of Islam when the book related to the plaintiff's own faith only to ignite racial and religious sentiments;

(vi) the defendant's allegations that the book was a prime example of the plaintiff mixing religion with politics when the book does not suggest anywhere that the plaintiff imposed her personal religious beliefs in the function of her political roles; and

(vii) the defendant failed to produce any evidence of any Muslim having been converted or wanting to convert just by having read the book. PW2, PW5, PW6 and PW7 testified that they were not influenced in any way by the book to convert to Christianity.

(b) the second impugned words, in view of the following:

(i) if the defendant was genuinely concerned about the contents of the book, he would have lodged a police report immediately upon reading it, or at the latest, when he published the first publication. The defendant lodged a police report as a reaction to the plaintiff's

police report against him in relation to the first publication and thereafter, he published his police report to the world. The defendant did not provide any reason for this except in his re-examination where he said it was because the plaintiff had issued a press statement after lodging her police report and 'saya pun just sharing'; and

(ii) if the defendant's genuine intention was to have the book investigated, lodging a police report was sufficient. There was no necessity to publish the police report to the public other than for malicious reasons.

[99] The defendant publicly stated in the Researchers Information Overview in the UUM website that his prime interest is on the development of Malaysian political parties, especially PAS. This fuelled the need for him to attack the plaintiff's personal journey and personal beliefs, converting the contents of the book, which has been on the shelves of Malaysian bookstores for more than a decade, into a racially motivated attack against the plaintiff.

[100] In the written submission, the defendant raised an issue that the plaintiff's counsel failed to re-examine the plaintiff on three admissions which were made during cross-examination, namely that:

(a) she did not have any documentary evidence to prove that the defendant was given a warning by UUM;

(b) the book was intended to be an inspiration to the readers to follow in her footsteps in the field of politics; and

(c) the defendant never raised the issue of the plaintiff's team being racial or multiracial in the first impugned words and the second impugned words.

[101] However, based on the defendant's written submission (encl 124), I was unable to decipher the consequence or impact of the failure to re-examine the plaintiff on these matters to the plaintiff's case.

[102] What is clear though was that the three admissions do not form a substantive part of the defendant's cross-examination and the plaintiff's answers did not cause a dent to her case in any way because:

(a) when cross-examined, the defendant conceded that there was a 'larangan' by UUM from publishing any political writings in the social media;

(b) the plaintiff always intended the book to serve as an inspiration for others to join politics and to strive for clean governance for the benefit of all; and

(c) the plaintiff stated that her team was a multiracial one and explained that if she had an agenda to convert everyone, as insisted by the defendant,

then her team would be the first targets, which was not the case at all.

[103] In the upshot, even if the defences of fair comment and qualified privilege were established, the plaintiff has pleaded the particulars of malice in the reply to defence and has proven, on a balance of probabilities, that the defendant was actuated by malice for the reasons as outlined above. As prescribed by the law, malice defeats the defences of fair comment and qualified privilege.

Damages and other reliefs

[104] The plaintiff submitted at length, and her team of solicitors diligently carried out comprehensive research, on damages awarded in defamation cases in the supplementary submission in relation to damages (encl 134).

[105] The awards in 49 cases for the period between 21 August 1990 and 18 April 2025 was tabulated in Annexure B. Among the cases which involve politicians are *Tan Sri Lim Kit Siang v YB Dr Siti Mastura bt Muhammad and other suits* [2024] MLJU 3687; *Chow Kon Yeow v Tan Sri Dato' Tan Kok Ping* [2025] 8 MLJ 357; *Lim Guan Eng v Mahiaddin bin Md Yassin* [2024] MLJU 2904; *Dato' Hj Mahfuz bin Hj Omar*; *Lim Guan Eng v Ruslan bin Kassim and another appeal*; *Nurul Izzah*; and *Datuk Harris Mohd Salleh.*

[106] In *Tan Sri Lim Kit Siang v YB Dr Siti Mastura bt Muhammad,* the court held, among others, that:

> [84] ... In assessing the quantum of damages, I considered the following.
>
> [85] First, the award of damages must not be exorbitant or excessive. Damages should be compensatory and not punitive. The tort of defamation exists to protect, not the person or the pocket, but the reputation of the person defamed. In actions for defamation, damages are awarded to compensate the plaintiff for the injury to his reputation. They operate to vindicate the plaintiff to the public and to console him for the wrong done (see the Federal Court decision in *Lim Guan Eng v Ruslan* (at p 244 (MLRA); p 199 (CLJ); p 572 (MLJ)).
>
> [86] Second, the trend of damages awarded shows that it is no longer in the realm of millions of ringgit. As remarked by the Court of Appeal in *Syed Nadri Syed Harun & Anor v Lim Guan Eng & other appeals* [2019] 4 MLJ 259 at p 275 ; [2019] 2 CLJ 631 at p 649, 'the days of million Ringgit award for defamation has long gone and consigned to history'. I think that sentiment remains valid, notwithstanding that the decision of the Court of Appeal was overruled by the Federal Court by a majority decision in *Lim Guan Eng v Ruslan*.
>
> [87] In *Syed Nadri v Lim Guan Eng*, RM150,000 was awarded as a global sum for general and aggravated damages:
>
> [33] Having given our due consideration, we agreed with learned defendants'

counsel that the global award made by the learned trial judge was also excessive and not in line with the trend of cases. In *Lim Guan Eng v Utusan Melayu (M) Bhd* [2012] 2 MLJ 394; [2012] 2 CLJ 619 despite the plaintiff being a Chief Minister of Penang and a finding of malice in that case, the award made was RM200,000.

[88] In *Liew Yew Tiam & Ors v Cheah Cheng Hoc & Ors* [2001] 2 CLJ 385, the Court of Appeal reduced the awards totalling RM1m to RM100,000. The following observation of the Court of Appeal is instructive (at p 395):

> In the process of making our assessment we have not overlooked the recent trend in this country of claims and awards in defamation cases running into several million ringgit. No doubt that trend was set by the decision of this court in *MGG Pillai v Tan Sri Dato Vincent Tan Chee Yioun*. It is a decision that has been much misunderstood. The underlying philosophy of that decision is that injury to reputation is as, if not more, important to a member of our society than the loss of a limb. But we think the time has come when we should check the trend set by that case. This is to ensure that an action for defamation is not used as an engine of oppression. Otherwise, the constitutional guarantee of freedom of expression will be rendered illusory.

...

[93] Having regard to the above, I award the following as global damages: (a) RM300,000 in favour of Lim Kit Siang; (b) RM50,000 in favour of Lim Guan Eng; and (c) RM200,000 in favour of Teresa Kok. I think a differentiation in the said amounts is appropriate for two reasons. First, it takes into account the longer standing and stature of Lim Kit Siang, an elder statesman who had been conferred the Panglima Setia Mahkota (PSM) carrying the title of Tan Sri by the King. Second, the impugned words have more to do with Lim Kit Siang and Lim Guan Eng, as compared to Teresa Kok.

[94] In line with the practice to give a single award of damages, I would not make a separate award for aggravated damages. This is to ensure that awards are not excessive and to avoid 'double counting', as the circumstances giving rise to aggravated and general damages are usually inextricably intertwined (see the Court of Appeal decision in *Utusan Melayu (M) Bhd v Othman bin Hj Omar* [2017] 2 MLJ 800 at pp 815–816).

[95] I do not think exemplary damages is warranted as there is no evidence that D made the impugned statement with a view to profit or to enrich herself (see the Court of Appeal decision in *Tradewinds Properties Sdn Bhd v Zulhkiple A Bakar & Ors* [2019] 1 MLJ 421; [2019] 2 CLJ 261).

[107] The principles of law on the award of damages in the context of defamation suits were also succinctly covered by the High Court in the recent case of *Ng Ze Xuan v Tan Sing How & Ors* [2025] MLJU 287.

[108] To the defendant, the plaintiff has failed to prove the existence of:

(a) any negative comments by the netizens about the plaintiff who have read any of the defamatory statements;

(b) any element of widespread hatred against the plaintiff resulting from the defamatory statements complained of;

(c) any threats to the plaintiff's safety except for the plaintiff's testimony that she was guarded by police escort;

(d) any elements which affected her credibility and political standing. The plaintiff admitted in her evidence that she won the General Election with a higher number of majority votes as compared to the earlier election; she was promoted in the Cabinet from a Deputy Minister to a Minister; and her position in DAP has strengthened; and

(e) any condition or situation which were caused by the defamatory statements such that the plaintiff was affected and could not perform her role as the people's representative.

[109] The defendant additionally submitted that the plaintiff did not adduce any evidence to prove that the defendant has gained any benefit or personal profit from the two defamatory statements complained of. The plaintiff's counsel did not suggest to the defendant in cross-examination of this fact.

[110] Furthermore, the defendant questioned the fact that the plaintiff did not initiate any civil suit against the press or media which had published the defendant's statements.

[111] It is trite that libel is actionable per se. Therefore, harm to reputation is presumed, and there is no need for the plaintiff to prove actual damage (see *Abdul Rahman Talib v Seenivasagam & Anor* [1965] 1 MLJ 142b and *MGG Pillai v Tan Sri Dato' Vincent Tan Chee Yioun & other appeals* [1995] 2 MLJ 493).

[112] The award of damages is meant to be compensatory and they are awarded based on the merits of each case. There is no set formula or scale in determining the quantum, however there are accepted guidelines as illuminated through decades of judgments passed by the courts.

General damages

[113] In *Chow Kon Yeow v Tan Sri Dato' Tan Kok Ping* [2025] 8 MLJ 357, global damages were awarded in the sum of RM350,000 and no separate award was made for aggravated damages. The prayer for exemplary damages was not granted as there was no evidence that the defendant made the impugned statement with a view to profit or enrich himself. Further, the prayer to order

A the defendant to publish an apology was not granted because the defendant did not indicate a willingness to apologise and therefore, an apology will be insincere and counter productive.

B **[114]** In *Noor Azman bin Azemi v Zahida bt Mohamed Rafik* [2019] 3 MLJ 141, the defendant had repeated the contents of the police report she lodged against the plaintiff to the reporters and one newspaper had published an article about the contents of the police report. The plaintiff was awarded damages in the sum of RM200,000.

C

[115] The Court of Appeal in *Chin Choon @ Chin Tee Fut v Chua Jui Meng* [2005] 3 MLJ 494; [2005] 2 CLJ 569 had referred to *Defamation Law, Procedure & Practice* by Price & Duodu (3rd Ed, para 20–04 at p 208) for the factors that a court must take into account in assessing compensatory damages
D and I have considered the plaintiff's claim according to these factors as set out below:

(a) gravity of the allegations:

In the publications, the plaintiff was accused of committing some of the
E gravest offences imaginable in a multi-religious society, namely, attempting to convert Muslims and inciting religious discord. These allegations were calculated to paint the plaintiff as a criminal, a religious threat and a traitor to national unity. The publications were the result of the defendant's refusal to understand the book or to read it entirely and its
F proper context.

In the light of the above, the defamatory statements strike at the very core of the plaintiff's ability to serve the public. By portraying her as someone with a hidden religious agenda, the publications sought to cast her as a threat to Islam, the official religion of the Federation, and unfit to hold
G public office. As submitted by the plaintiff, such an attack goes far beyond political criticism; it is an assault on her integrity, reputation and legitimacy as a national leader;

(b) size and influence of the circulation:

H It was an irrefutable fact that the defamatory statements were published on widely accessible online platforms, including the defendant's blog and FB, both of which enjoyed substantial readership. Given the viral nature of social media, the defamatory content would have been disseminated to a broad and diverse audience, multiplying the harm caused;

I (c) effect of the publication:

The effect of the defendant's statements was immediate and far-reaching. The plaintiff became the subject of public suspicion and vitriol. The defamatory content undermined her reputation among constituents and the general public. In the plaintiff's words:

> ... I exercised extra caution during that time. I was very worried because when you play up the issue of religion in this country, it is very inflammatory, and especially so linking Hannah Yeoh and the DAP. And so yes, physical harm I believe because of the fast police report, thankfully there was no physical attack during that time. But the online remarks and online attacks went on, and even up to 2018 ... when I was campaigning as a Member of Parliament in Segambut after I moved to Kuala Lumpur ... outside of the flat of SPPK when I was having ceramah, people produced leaflets to talk about this anti-Islam agenda that supposedly is related to me. So, those aligned attacks and the reputation that was created out of these postings like these, linger on even up to 2018 in my election in Segambut.

(d) extent and nature of the plaintiff's reputation:

Although the plaintiff had instituted the suit in her personal capacity, nonetheless her standing among the citizenry is a relevant factor to take into consideration in deciding the appropriate award of damages.

Following the General Election in November 2022, the plaintiff has served as the Minister of Youth and Sports. At the date of filing of the suit, the plaintiff was known as the youngest and first female Speaker of any legislative assembly in Malaysia when she served as the Speaker of the Selangor State Legislative Assembly from 2013 to 2018. From 2018 to 2020, she was the Deputy Minister of Women, Family and Community Development;

(e) the defendant's behaviour:

As a lecturer at a public university, the defendant's role in society is no less important. He is held to a higher standard by the general public and is not expected to make baseless or irresponsible statements. As expressed by PW7 in his evidence:

> ... kita mengharapkan pensyarah Melayu dan cendekiawan Melayu menjadikan masyarakat Melayu lebih bijak dan supaya menghormati hak semua pihak dan semua agama dan semua pengamal agama tanpa nak dikatakan bahawa tak boleh cakap pasal agama kamu.

The defendant did not make any attempt to approach the plaintiff as the author of the book to clarify on his understanding, interpretation or perception of selected passages from the book. Instead, the defendant acted with malice, recklessness and an utter disregard for the truth. He persisted in propagating and defending the false narrative. The defendant's refusal to retract the statements or issue any apology demonstrates a sustained intention to harm and aggravate the injury to the plaintiff's dignity and reputation; and

(f) the plaintiff's behaviour:

The plaintiff has demonstrably acted with restraint, professionalism and recourse to lawful means. She responded to the defamatory statements by lodging a police report and initiating legal proceedings, thereby placing

her trust in the rule of law. Her conduct throughout has been dignified and consistent with the position of a public official seeking vindication, not vengeance.

Aggravated damages

[116] Aggravated damages are given as additional compensation where there is injury to the feelings of the plaintiff that is caused by or exacerbated as a result of exceptional conduct of the defendant. The conduct must be high-handed or malicious act or an act done in an oppressive manner. Mere wrongful conduct is not sufficient. There must be something exceptional in the act that was done. Two elements which are relevant to the availability of an award for aggravated damages are, firstly, exceptional or contumelious conduct or motive on the part of the defendant in committing the wrong, and secondly, intangible loss suffered as a result by the plaintiff, that is injury to feelings or personality (see *Rookes v Barnard* [1964] AC 1129 and *Dato' Stanley Isaacs (suing by himself and as the administrator of the estate of To' Puan Suzanne Thomas, deceased) v The Government of Malaysia & Ors* [2019] 8 MLJ 331 where this court had applied the legal principles as laid down in the famous English case; see too, *Big Junkyard Sdn Bhd & Anor v Chan Kah Wai (berniaga dibawah nama Ytwo Coffee House)* [2022] MLJU 2923 and *Warisan Pinang Sdn Bhd & Ors v Carolyn Khor Tsai Chen* [2023] MLJU 1753).

[117] Ms Sangeet Kaur argued that there were ample reasons for this court to make an award for aggravated damages as:

(a) the defendant made unfounded and inflammatory allegations and deliberately infused these allegations with calculated and provocative, racial and religious accusations. He accused the plaintiff of attempting to influence the faith of Muslims. Such conduct was calculated to inflame public sentiment, incite distrust and hostility, and deepen communal divides, exploiting Malaysia's sensitive religious landscape;

(b) the defendant's statements served to silence the plaintiff for openly professing her faith in the course of explaining her personal journey, a right guaranteed to all persons under art 11 of the Federal Constitution. In his evidence, the defendant took the position that 'sebut sahaja, sudah menyebar'. The defendant's actions were not only harmful to the plaintiff, but corrosive to constitutional guarantees and the fabric of Malaysia's multireligious society; and

(c) the defendant claims to be an academic and educator; someone entrusted with shaping the minds of young Malaysians. The fact that he would make inflammatory and damaging statements without any proper basis and without a genuine understanding of the book, is particularly troubling. Instead of fostering critical thinking and

tolerance, the defendant abused his platform to promote baseless fear and division.

[118] There are a variety of circumstances where an award for aggravated damages can be justified and I agree with the plaintiff's counsel that the circumstances in the instant case is one of them. However, I was inclined to adopt the approach as enunciated by the apex court in *Lim Guan Eng v Ruslan bin Kassim & another appeal* in making a global award for general damages and aggravated damages.

[119] After reviewing the awards made by the courts in previous judgments as cited by the parties, I was of the considered view that a sum of RM200,000 each for the first publication and the second publication totalling to RM400,000 as general damages and aggravated damages is appropriate in the circumstances of this case.

Exemplary damages

[120] The plaintiff submitted that the purpose of exemplary damages is to show the court's abhorrence to 'outrageous conduct' and an award of exemplary damages may be deterrent or punitive, and retributory, and the award may have an important function in vindicating the rights of the plaintiff.

[121] There are two parts in granting exemplary damages, firstly, the plaintiff has to show that he falls within one of the three categories enunciated in *Rookes v Barnard,* namely:

(a) oppressive, arbitrary or unconstitutional action by the servant of the government;

(b) where the defendant's conduct has been calculated by him to make a profit for himself which may well exceed the compensation payable to the plaintiff; or

(c) where exemplary damages are expressly authorised by statute.

[122] Once the above threshold is cleared, the plaintiff must show 'outrageous conduct' by the defendant ie the defendant has acted with vindictiveness or malice, or where he has acted with a contumelious disregard for the right to the plaintiff (see *Big Junkyard* and *Warisan Pinang*).

[123] The learned counsel moved this court to consider that the defendant did profit politically, ideologically and professionally, particularly in the context of Malaysia's racially and religiously charged political climate, in the following ways:

A (a) by framing the plaintiff's Christian faith and personal autobiography as a threat to Islam, the defendant attempted to strengthen his standing within segments of the Malay-Muslim majority who are sensitive to religious issues. His conduct also fuelled a narrative of 'Islam under threat', which has long been a tool used by certain political actors to
B garner support;

(b) by making controversial statements, especially those that stoke religious sentiment, the defendant may have appeared as someone defending Islam; and

C (c) the defamatory statements were a failed attempt to enhance the defendant's public visibility and political relevance in a divided socio-political society.

D **[124]** However, I decided not to allow the claim for exemplary damages as the plaintiff did not prove the elements which are necessary for an award of exemplary damages to be made, in particular, that the defendant's conduct was calculated to make a profit for himself in the non-monetary sense.

E Injunction

[125] The plaintiff's prayer for an injunction to restrain the defendant, his servants or agents from publishing the impugned words or anything similar to these words was allowed because the defendant was fully aware of the immense
F influence of social media as evidenced by his decision to publish the second publication within one week of the first publication. The defendant was intent on exploiting the social media platform to garner support and amplify his personal biases against the plaintiff. Up to the date of judgment, where the defendant absented himself, the defendant did not show any remorse.

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[126] Furthermore, from DW1's and DW3's testimonies in court, they were working on getting the plaintiff charged and eventually imprisoned. In other words, they do not plan on letting the matter rest. If unrestrained, they will use
H statements which have been proven to be defamatory to incite hate and stir racial and religious issues which would harm this nation's multi-ethnic and multi-religious society.

Public retraction and apology

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[127] The plaintiff's prayer for an unconditional public retraction and apology as proposed in Annexure A of encl 134 to be read in court and published in the defendant's FB publicly and in two major newspapers was not allowed because the defendant has never indicated any willingness to apologise.

Judging from the defendant's conduct before, during and after the trial, he is obviously unrepentant and any apology forced upon the defendant post-judgment of the court would be insincere (see *Chow Kon Yeow*).

CONCLUSION

[128] Premised on the above considerations, the plaintiff's claim was allowed whereby with reference to the reliefs as pleaded in para 31 of the SoC, the court:

(a) awarded a global sum of RM400,000 as general damages and aggravated damages (RM200,000 each for the first publication and the second publication) with interest at the rate of 8%pa from 24 February 2022 (date of filing of the writ and SoC) until the date of judgment and 5%pa from the date of judgment until full payment;

(b) ordered an injunction to be issued restraining the defendant, his servants or agents from publishing the impugned words or anything similar to these words; and

(c) awarded costs to the plaintiff in the sum of RM80,000, subject to allocatur.

Plaintiff's claim allowed; global sum of RM400,000 as general and aggravated damages with interest and costs awarded; and injunction sought awarded.

Reported by Ashok Kumar